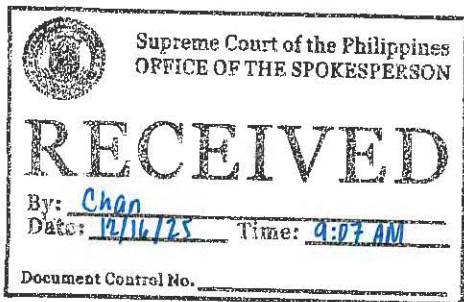




Republic of the Philippines
Supreme Court
Manila



EN BANC

COMMISSIONER OF INTERNAL
REVENUE,

G.R. No. 271701

Petitioner,

Present:

-versus-

NIPPON EXPRESS PHILIPPINES
CORPORATION,

Respondent.

GESMUNDO, C.J.,
LEONEN,*
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO,
LOPEZ, J.,
DIMAAMPAO,
MARQUEZ,
KHO, JR., and
SINGH,** JJ.

Promulgated:

May 6, 2025

X-----X

DECISION

ZALAMEDA, J.:

In the instant case, We clarify which court exercises jurisdiction over *certiorari* petitions against interlocutory orders or judgments of the Court of

* Dissenting and on official leave.
** Concurring and on leave.

Tax Appeals (CTA) in Division. Specifically, the Court underlines that the CTA *En Banc* has no *certiorari* power over the interlocutory issuances of its Division. Instead, petitions for *certiorari* assailing interlocutory orders or judgments of the CTA Divisions are cognizable by the Supreme Court.

The Case

This Petition for Review on *Certiorari*¹ filed by the Commissioner of Internal Revenue (CIR) seeks to reverse and set aside the Decision² and Resolution³ of the CTA *En Banc*.

Antecedents

The case stemmed from a Petition for Review on *Certiorari*⁴ filed by respondent Nippon Express Philippines Corporation (Nippon Express) with the CTA Second Division on January 15, 2021, docketed as CTA Case No. 10450. Nippon Express sought the refund or issuance of a tax credit certificate (TCC) in the amount of PHP 43,068,252.54, allegedly representing its unutilized input value-added tax (VAT) attributable to zero-rated sales made during the period covering April 1, 2018 to June 30, 2018.⁵ The CIR filed several extensions for time to file an answer. On May 6, 2021, the CIR electronically filed and served its Answer⁶ to the Petition.⁷

On July 21, 2021, the CTA Division issued a Resolution,⁸ to wit:

Considering the Report of the Records Division that as of date [CIR] has not filed the hard copy of his Answer to the Petition for Review. Let this case be set for the *ex-parte* presentation of [Nippon Express]'s evidence on September 8, 2021, at 9:00 a.m.

SO ORDERED.⁹ (Emphasis in the original)

¹ *Rollo*, pp. 13–37.

² *Id.* at 39–47; The August 29, 2023 Decision in CTA EB No. 2580 was penned by Associate Justice Marian Ivy F. Reyes-Fajardo and concurred in by Associate Justices Jean Marie A. Bacorro-Villena, Lanee S. Cui-David, and Corazon G. Ferrer-Flores, with Presiding Justice Roman G. Del Rosario and Associate Justices Catherine T. Manahan, and Maria Rowena Modesto-San Pedro, dissenting.

³ *Id.* at 67–70. The January 26, 2024 Resolution in CTA EB No. 2580 was penned by Associate Justice Marian Ivy F. Reyes-Fajardo and concurred in by Associate Justices Jean Marie A. Bacorro-Villena, Lanee S. Cui-David, and Corazon G. Ferrer-Flores, and Henry S. Angeles, with Presiding Justice Roman G. Del Rosario and Associate Justices Catherine T. Manahan, and Maria Rowena Modesto-San Pedro, dissenting.

⁴ *Id.* at 123–164.

⁵ *Id.* at 124.

⁶ *Id.* at 167–177.

⁷ *Id.* at 41.

⁸ *Id.* at 178. The July 21, 2021 Resolution in CTA Case No. 10450 was signed by Associate Justices Juanito C. Castañeda, Jr. and Jean Marie A. Bacorro-Villena of the Second Division, Court of Tax Appeals, Quezon City.

⁹ *Id.*

The CIR moved for reconsideration, stating that it was a mere oversight that the former handling lawyer (who was already reassigned to another division of the bureau) failed to provide the CTA with a hard copy of the Answer within the extended period allowed therefor, as required in CTA *En Banc* Resolution No. 4-2021.¹⁰ Having already filed the said hard copy of the Answer on October 4, 2021, CIR urged the relaxation of procedural rules in the interest of substantial justice by filing a Motion for Reconsideration.¹¹

In its Resolution¹² dated November 17, 2021, the CTA Division denied the CIR's Motion for Reconsideration, ruling that the former counsel's negligence was inexcusable. The dispositive portion of the said Resolution states:

WHEREFORE, premises considered, [CIR]'s "Motion for Reconsideration Re: Resolution dated [July 21, 2021]" filed on [October 25, 2021] is hereby **DENIED**.

Accordingly, the hearing set on November 24, 2021 at 9:00 [a.m.] via videoconference stands, for the presentation of [Nippon Express]'s evidence *ex parte*.

SO ORDERED.¹³ (Emphasis in the original)

Aggrieved, the CIR elevated the matter to the CTA *En Banc*, docketed as CTA EB No. 2580, via a Petition for *Certiorari*¹⁴ under Rule 65 of the Rules of Court, imputing grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the CTA Division. The CIR averred that Nippon Express should not be allowed to present its evidence *ex parte*.¹⁵

Decision of the CTA En Banc

On August 29, 2023, the CTA *En Banc* issued the assailed Decision, dismissing the CIR's Petition for lack of jurisdiction. The CTA *En Banc* determined that it was without jurisdiction over the questioned Resolutions of the CTA Division dated July 21, 2021 and November 17, 2021, as these were interlocutory in nature. The dismissal, however, resulted from the lack of a majority vote in favor of the petition, thus:

In the deliberation of CTA EB No. 2580, Associate Justices Marian Ivy F. Reyes-Fajardo, Jean Marie A. Bacorro Villena, Lanee S. Cui-David, and Corazon G. Ferrer-Flores voted to dismiss said case, because the CTA *En Banc* lacks jurisdiction over a Petition for *Certiorari* under Rule 65 of the Rules of Court, as amended, challenging an

¹⁰ Pleadings, Motions and Other Court Submissions Filed by Email, February 24, 2021.

¹¹ *Rollo*, pp. 183-189.

¹² *Id.* at 191-194.

¹³ *Id.* at 193-194.

¹⁴ *Id.* at 87.

¹⁵ *Id.* at 71-106.

interlocutory order of the CTA in Division. On the other hand, Presiding Justice Roman G. Del Rosario wrote a Dissenting Opinion. Joining in said Dissenting Opinion are Associate Justices Ma. Belen M. Ringpis-Liban, Catherine T. Manahan, and Maria Rowena Modesto-San Pedro. Considering that the majority vote was not obtained, the Petition for Certiorari, posted on February 2, 2022, by [CIR] is dismissed, pursuant to Section 3, Rule 2 of the Revised Rules of the Court of Tax Appeals.

WHEREFORE, the Petition for Certiorari, posted on February 2, 2022, by the Commissioner of Internal Revenue, in CTA EB No. 2580, is **DISMISSED**, pursuant to Section 3, Rule 2 of the Revised Rules of the Court of Tax Appeals.

SO ORDERED.¹⁶ (Emphasis in the original)

The CIR filed a Motion for Reconsideration,¹⁷ arguing that the CTA *En Banc* possesses jurisdiction over a special civil action for *certiorari* under Rule 65 of the Rules of Court, as amended, to assail interlocutory orders issued by a CTA Division.

In the now assailed Resolution dated January 26, 2024, the CTA *En Banc* denied the CIR's Motion for Reconsideration for lack of merit, stating that, as held in *Commissioner of Internal Revenue v. Court of Tax Appeals (First Division)*¹⁸ the proper remedy to challenge interlocutory orders of a CTA Division is a petition for *certiorari* filed directly before this Court, not the CTA *En Banc*.¹⁹

Hence, the present Petition.

Issue

The issue to be resolved is whether the CTA *En Banc* gravely erred in dismissing the CIR's Petition for *Certiorari* on the ground that it has no jurisdiction over the same.²⁰

The CIR insists that the CTA *En Banc* has jurisdiction to review interlocutory orders of the CTA Division through a petition for *certiorari* under Rule 65 of the Rules of Court. Adopting the position of CTA Presiding Justice Roman G. Del Rosario in his Dissenting Opinion in CTA EB No. 2580, the CIR argues that the CTA *En Banc* inherently possesses the authority to issue a writ of *certiorari*, when necessary, in aid of its appellate jurisdiction.²¹

¹⁶ *Id.* at 45.

¹⁷ *Id.* at 107–122.

¹⁸ 898 Phil. 131 (2021) [Per J. Perlas-Bernabe, Second Division].

¹⁹ *Id.* at 228–229.

²⁰ *Rollo*, pp. 18–26.

²¹ *Id.* at 54.

According to the CIR, if the CTA *En Banc*'s dismissal of *certiorari* petitions for lack of jurisdiction is upheld, aggrieved parties would be left with no option but to elevate such petitions directly to the Supreme Court. Petitioner points out that, as held in *People v. Court of Tax Appeals-Third Division*,²² this Court would also be constrained to dismiss them on the ground that no prior petition had been filed before the CTA *En Banc*, pursuant to the principle of hierarchy of courts.²³

The CIR also asserts that requiring the parties to file an appeal before the CTA *En Banc* to question the decision or resolution of a CTA Division, while simultaneously filing a petition for *certiorari* before this Court to challenge an interlocutory order issued in the same case, would result in a split-jurisdiction scenario. In such a situation, both the CTA *En Banc* and this Court would be exercising jurisdiction over the same subject matter—an outcome that undermines the orderly administration of justice.²⁴

In contrast, Nippon Express contends that the proper remedy against an interlocutory order issued by a CTA Division is a petition for *certiorari* under Rule 65 of the Rules of Court filed directly before this Court—not with the CTA *En Banc*. According to Nippon Express, the CTA's *certiorari* power over interlocutory orders is limited to those issued by the lower courts, and CTA Divisions are not lower courts in relation to the CTA *En Banc*.²⁵

Nippon Express also echoes the view of CTA Associate Jean Marie A. Bacorro-Villena (Justice Bacorro-Villena) that the proper interpretation of the ruling in *Court of Tax Appeals-Third Division* should be that the CTA *En Banc*'s jurisdiction over a petition for *certiorari* under Rule 65 of the Rules of Court, is limited to those involving a judgment or final order of a CTA Division that cannot be the subject of an appeal before the CTA *En Banc* such as a judgment of acquittal. By way of exception, the judgment of acquittal may still be reviewed by the CTA *En Banc* via special civil action for *certiorari* under Rule 65.²⁶

Ruling of the Court

Preliminarily, We note that the case is already moot, considering the developments on the main case and the subject matter of the present Petition for Review on *Certiorari*. The records of the CTA would show that the CTA Division promulgated a Decision on September 28, 2023, denying respondent's Petition for lack of merit, and a Resolution on January 29, 2024 which denied respondent's motion for reconsideration on the main case.²⁷

²² 932 Phil. 139 (2022) [Per J. Inting, Third Division].

²³ *Id.* at 150–154.

²⁴ *Rollo*, p. 25.

²⁵ *Id.* at 268–275.

²⁶ *Id.* at 25.

²⁷ <https://cta.judiciary.gov.ph/history2> (last accessed: December 16, 2024). This dispositive portion of the

A case becomes moot when it ceases to present a justiciable controversy by supervening events so that an adjudication of the case or a declaration on the issue would be of no practical value or use. In such an instance, there is no actual substantial relief to which a petitioner would be entitled and which would be negated by the dismissal of the petition. Accordingly, courts generally decline jurisdiction over such a case or dismiss it on the ground of mootness since the judgment will not serve any useful purpose or have any practical legal effect because, in the nature of things, it cannot be enforced.²⁸

Unarguably, there is no more justiciable controversy on the propriety of allowing the presentation of respondent's evidence *ex parte* since the CTA Division already decided on the main case.

Nevertheless, this Court finds it imperative to resolve the issue of which court has jurisdiction over *certiorari* petitions under Rule 65 of the Rules of Court against interlocutory orders or judgment of the CTA Division.

Indeed, this Court may still decide a case, which is otherwise moot and academic:

The "moot and academic" principle is not a magical formula that can automatically dissuade the courts in resolving a case. Courts will decide cases, otherwise moot and academic, if: *first*, **there is a grave violation of the Constitution**; *second*, the exceptional character of the situation and the **paramount public interest is involved**; *third*, when **constitutional issue raised requires formulation of controlling principles to guide the bench, the bar, and the public**; and *fourth*, the case is **capable of repetition yet evading review**.²⁹ (Emphasis in the original)

Guided by the foregoing, We underscore that the Court may decide the instant case as it is capable of repetition yet evading review, and to formulate controlling principles to guide the bench, the bar, and the public.

Thus, the remaining issue for resolution is whether a petition for *certiorari* under Rule 65 of the Rules of Court, as amended, challenging an interlocutory order of a CTA Division, falls under the jurisdiction of the Supreme Court or the CTA *En Banc*. In other words, does the CTA *En Banc*

Decision in CTA Case No. 10450 dated September 28, 2023 reads:

WHEREFORE, the foregoing premises considered, the Petition for Revised filed by Nippon Express Philippines Corporation on January 15, 2021 is hereby DENIED for lack of merit.
SO ORDERED.

The dispositive portion of the Resolution in CTA Case No. 10450 dated January 29, 2024 reads:

WHEREFORE, the foregoing premises considered, petitioner's "Motion for Reconsideration" filed on November 3, 2023, is DENIED for lack of merit.
SO ORDERED.

²⁸ See *Saint Wealth Ltd. v. Bureau of Internal Revenue*, 918-B Phil. 1110, 1135 (2021) [Per J. Gaerlan, *En Banc*], citing *Jacinto-Henares v. St. Paul College of Makati*, 807 Phil. 133, 140-141 (2017) [Per J. Carpio, Second Division].

²⁹ *Id.* at 1136, citing *David v. Macapagal-Arroyo*, 522 Phil. 705, 754 (2006) [Per J. Sandoval-Gutierrez, *En Banc*].

possess the power to take cognizance of a petition for *certiorari* assailing such an interlocutory order?

Upon a careful deliberation, this Court responds to the issue in the negative.

The reasons are set forth below, in *seriatim*.

The CTA En Banc's jurisdiction is strictly appellate; besides, the exercise of certiorari presupposes a relationship of superiority

There is no question that the Resolutions dated July 21, 2021 and November 17, 2021 of the CTA Division are interlocutory orders since they did not finally dispose of the case on the merits.³⁰ The CTA Division merely declared the petitioner in default for its failure to file a hard copy of the Answer to the petition filed by respondent and allowed respondent to present its evidence *ex parte*.

In this regard, jurisdiction is defined as the power and authority of a court to hear, try, and decide a case.³¹ It is never presumed but is conferred by law and the Constitution.³² Moreover, it is the Congress which is empowered to define, prescribe, and apportion the jurisdiction of various courts.³³

Concomitantly, Republic Act No. 1125,³⁴ as amended by Republic Act No. 9282³⁵ and Republic Act No. 9503,³⁶ establishes the CTA and defines its jurisdiction. Section 7 thereof states:

Sec. 7. *Jurisdiction.* — The CTA shall exercise:

a. Exclusive appellate jurisdiction to review by appeal, as herein provided:

1. Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or

³⁰ See *Commissioner of Internal Revenue v. Court of Tax Appeals*, 765 Phil. 140, 151 (2015) [Per J. Peralta, Third Division].

³¹ *City of Iloilo v. Philippine Ports Authority*, 893 Phil. 399, 404 (2021) [Per J. Zalameda, First Division].

³² See *Philippine Appliance Corp. Employees Association - NATU v. Philippine Appliance Corp.*, 159 Phil. 551 (1975) [Per J. Fernando, Second Division]; *Confederation for Unity, Recognition and Advancement of Government Employees v. Abad*, 889 Phil. 699, 721 (2020) [Per J. Leonen, *En Banc*].

³³ See *Confederation for Unity, Recognition and Advancement of Government Employees v. Abad*, 889 Phil. 699, 721 (2020) [Per J. Leonen, *En Banc*].

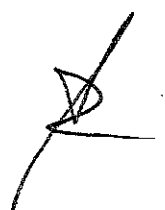
³⁴ An Act Creating The Court of Tax Appeals (1954).

³⁵ An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating Its Rank to the Level of A Collegiate Court with Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as amended, otherwise known as The Law Creating the Court of Tax Appeals, and for Other Purposes (2004).

³⁶ An Act Enlarging the Organizational Structure of the Court of Tax Appeals, Amending for the Purpose Certain Sections of the Law Creating the Court of Tax Appeals, and for Other Purposes (2008).

other matters arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue;

2. Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial;
 3. Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction;
 4. Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges, seizure, detention or release of property affected, fines, forfeitures or other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs;
 5. Decisions of the Central Board of Assessment Appeals in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals;
 6. Decisions of the Secretary of Finance on customs cases elevated to him automatically for review from decisions of the Commissioner of Customs which are adverse to the Government under Section 2315 of the Tariff and Customs Code;
 7. Decisions of the Secretary of Trade and Industry, in the case of nonagricultural product, commodity or article, and the Secretary of Agriculture in the case of agricultural product, commodity or article, involving dumping and counterbailing duties under Section[s] 301 and 302, respectively, of the Tariff and Customs Code, and safeguard measures under Republic Act No. 8800, where either party may appeal the decision to impose or not to impose said duties.
- b. Jurisdiction over cases involving criminal offenses as herein provided:
1. Exclusive original jurisdiction over all criminal offenses arising from violations of the National Internal Revenue Code or Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue or the Bureau of Customs: Provided, however, That offenses or felonies mentioned in this paragraph where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than [PHP 1 million] or where there is no specified amount claimed shall be tried by the regular Courts and the jurisdiction of the CTA shall be appellate. Any



provision of law or the Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil action for the recovery of civil liability for taxes and penalties shall at all times be simultaneously instituted with, and jointly determined in the same proceeding by the CTA, the filing of the criminal action being deemed to necessarily carry with it the filing of the civil action, and no right to reserve the filing of such civil action separately from the criminal action will be recognized.

2. Exclusive appellate jurisdiction in criminal offenses:

- a. Over appeals from the judgments, resolutions[,] or orders of the Regional Trial Courts in tax cases originally decided by them, in their respected territorial jurisdiction.
- b. Over petitions for review of the judgments, resolutions[,] or orders of the Regional Trial Courts in the exercise of their appellate jurisdiction over tax cases originally decided by the Metropolitan Trial Courts, Municipal Trial Courts[,] and Municipal Circuit Trial Courts in their respective jurisdiction.
- c. Jurisdiction over tax collection cases as herein provided:

1. Exclusive original jurisdiction in tax collection cases involving final and executory assessments for taxes, fees, charges and penalties: Provided, however, That collection cases where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than [PHP 1 million] shall be tried by the proper Municipal Trial Court, Metropolitan Trial Court[,] and Regional Trial Court.

2. Exclusive appellate jurisdiction in tax collection cases:

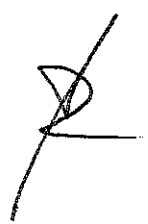
- a. Over appeals from the judgments, resolutions or orders of the Regional Trial Courts in tax collection cases originally decided by them, in their respective territorial jurisdiction.
- b. Over petitions for review of the judgments, resolutions[,] or orders of the Regional Trial Courts in the Exercise of their appellate jurisdiction over tax collection cases originally decided by the Metropolitan Trial Courts, Municipal Trial Courts[,] and Municipal Circuit Trial Courts, in their respective jurisdiction.

Further to this, Rule 4, Section 2 of A.M. No. 05-11-07-CTA, otherwise known as the Revised Rules of the Court of Tax Appeals (RRCTA) summarizes the jurisdiction of the CTA *En Banc* as follows:



SECTION 2. *Cases Within the Jurisdiction of the Court En Banc.* — The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

- (a) *Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:*
 - (1) Cases arising from administrative agencies — Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture;
 - (2) Local tax cases decided by the Regional Trial Courts in the exercise of their original jurisdiction; and
 - (3) Tax collection cases decided by the Regional Trial Courts in the exercise of their original jurisdiction involving final and executory assessments for taxes, fees, charges and penalties, where the principal amount of taxes and penalties claimed is less than [PHP 1 million];
- (b) Decisions, resolutions[,] or orders of the Regional Trial Courts in local tax cases decided or resolved by them in the exercise of their appellate jurisdiction;
- (c) Decisions, resolutions[,] or orders of the Regional Trial Courts in tax collection cases decided or resolved by them in the exercise of their appellate jurisdiction;
- (d) *Decisions, resolutions[,] or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive original jurisdiction over tax collection cases;*
- (e) Decisions of the Central Board of Assessment Appeals (CBAA) in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals;
- (f) *Decisions, resolutions[,] or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive original jurisdiction over cases involving criminal offenses arising from violations of the National Internal Revenue Code or the Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue or Bureau of Customs;*
- (g) *Decisions, resolutions[,] or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive appellate jurisdiction over criminal offenses mentioned in the preceding subparagraph; and*



- (h) Decisions, resolutions[,] or orders of the Regional Trial Courts in the exercise of their appellate jurisdiction over criminal offenses mentioned in subparagraph (f). (Emphasis supplied)

On the other hand, Rule 2, Section 2 of the RRCTA provides for the CTA *En Banc*'s original jurisdiction:

SECTION 2. *Exercise of Powers and Functions.* — The Court shall exercise its adjudicative powers, functions and duties *en banc* or in Divisions.

The Court shall sit *en banc* in the exercise of its administrative, ceremonial and non-adjudicative functions.

Based on the foregoing, the CTA *En Banc* exercises *exclusive appellate jurisdiction* over decisions rendered by the CTA Division, whether in the exercise of their original and appellate jurisdiction in both civil and criminal actions.

Indeed, the law creating the CTA does not expressly grant the CTA *En Banc* original *certiorari* jurisdiction over interlocutory orders issued by a CTA Division. The RRCTA, which essentially mirrors the statutory framework, is likewise silent on whether the CTA *En Banc* exercises original *certiorari* jurisdiction over such interlocutory orders.

As pointed out by Associate Justice Alfredo Benjamin S. Caguioa (Justice Caguioa) in the deliberations of herein case, the CTA *En Banc* exercises only appellate jurisdiction over decisions of the CTA Division as *explicitly provided* under Republic Act No. 1125, as amended by Republic Act No. 9282,³⁷ which reads:

Section. 18. *Appeal to the Court of Tax Appeals En Banc.* — No civil proceeding involving matters arising under the National Internal Revenue Code, the Tariff and Customs Code or the Local Government Code shall be maintained, except as herein provided, until and unless an appeal has been previously filed with the CTA and disposed of in accordance with the provisions of this Act.

A party adversely affected by a resolution of a Division of the CTA on a motion for reconsideration or new trial, may file a petition for review with the CTA en banc. (Emphasis in the original)

So too, as observed by Associate Justice Japar B. Dimaampao (Justice Dimaampao), the CTA in Division exercises both original and appellate jurisdiction over administrative bodies and the courts of first instance involving tax matters. In contrast, the CTA *En Banc* exercises only appellate jurisdiction over decisions or rulings of the CTA in Division, those of the Central Board of Assessment Appeals, and cases that originated from the Municipal or Metropolitan Trial Courts. The appellate jurisdiction exercised

³⁷ Separate Concurring Opinion, pp. 2-3.

by the CTA *En Banc* over the CTA in Division is not plenary or unlimited, but is constrained to final dispositions.³⁸

Accordingly, the very wording of the law reinforces the interpretation that the appellate jurisdiction of the CTA *En Banc* is intended to be narrower in scope than that of the CTA in Division.

On this note, the writ of *certiorari* traces its roots to the English common law. Originally, it was a prerogative writ issued by superior courts (such as the King's Bench or Chancery) to command inferior courts or public authorities to transmit the record of proceedings for review. Its purpose was to ensure that lower courts did not exceed their jurisdiction or act contrary to law, and to provide a remedy when no other plain, speedy, and adequate remedy was available. The Supreme Court has repeatedly acknowledged this historical context:

In the common law, from which the remedy of *certiorari* evolved, the writ of *certiorari* was issued out of Chancery, or the King's Bench, commanding agents or officers of the inferior courts to return the record of a cause pending before them, so as to give the party more sure and speedy justice, for the writ would enable the superior court to determine from an inspection of the record whether the inferior court's judgment was rendered without authority. The errors were of such a nature that, if allowed to stand, they would result in a substantial injury to the petitioner to whom no other remedy was available. If the inferior court acted without authority, the record was then revised and corrected in matters of law. The writ of *certiorari* was limited to cases in which the inferior court was said to be exceeding its jurisdiction or was not proceeding according to essential requirements of law and would lie only to review judicial or quasi-judicial acts.³⁹

As such, the exercise of *certiorari* presupposes a relationship of superiority—an act whereby a higher tribunal corrects the errors of a subordinate body. Absent such hierarchy, the very premise of *certiorari* falls away, for without inferiority, there can be no supervisory correction.

*Being a collegial body, no hierarchy exists
between the CTA En Banc and its Divisions*

Jurisprudence establishes that *certiorari*, as adopted in the Philippines, is a writ issued by a superior court to an inferior court of record, or other tribunal or officer, exercising a judicial function, requiring the certification and return to the former of some proceeding then pending, or the record and proceedings in some cause already terminated, in cases where the procedure

³⁸ Reflections, pp. 3–4.

³⁹ *People v. Sandiganbayan*, 723 Phil. 444, 483 (2013) [Per J. Bersamin, First Division].

is not according to the course of the common law.⁴⁰ The remedy is brought against a lower court, board, or officer rendering a judgment or order and seeks the annulment or modification of the proceedings of such tribunal, board or officer, and the granting of such incidental reliefs as law and justice may require. It is available when the following elements concur:

1. That it is directed against a tribunal, board or officer exercising judicial or quasi-judicial functions;
2. That such tribunal, board or officer has acted without or in excess of jurisdiction or with grave abuse of discretion; and
3. That there is no appeal nor any plain, speedy and adequate remedy in the ordinary course of law.⁴¹

Certiorari being an extraordinary remedy, the party who seeks to avail of the same must strictly observe the rules laid down by law. The extraordinary writ of *certiorari* may be availed of only upon a showing, in the minimum, that respondent tribunal or officer exercising judicial or quasi-judicial functions has acted without or in excess of their jurisdiction, or with grave abuse of discretion.

From the foregoing, for a writ of *certiorari* to issue, the court granting the writ must be superior to the tribunal, board, or officer against whom the writ is directed. This requirement is gravely wanting in the case of the CTA *En Banc* and the CTA Division.

For one, Republic Act No. 1125, as amended by Republic Act No. 9282 and Republic Act No. 9503, the law creating the CTA, only contemplates one agency or judicial entity, the CTA itself:

SEC. 2. *Sitting En Banc or Division; Quorum; Proceedings.* —
The CTA may sit *en banc* or in [three] Divisions, each Division consisting of [three] Justices.

[Five] Justices shall constitute a quorum for sessions *en banc* and [two] Justices for sessions of a Division. *Provided*, That when the required quorum cannot be constituted due to any vacancy, disqualification, inhibition, disability, or any other lawful cause, the Presiding Justice shall designate any Justice of other Divisions of the Court to sit temporarily therein.

The affirmative votes of [five] members of the Court *en banc* shall be necessary to reverse a decision of a Division but a simple majority of the Justices present necessary to promulgate a resolution or decision in all other cases or [two] members of a Division, as the case may be, shall be necessary for the rendition of a decision or resolution in the Division Level. (Emphasis supplied.)

⁴⁰ See *Baterina v. Justice Musngi*, 909 Phil. 83, 93 (2021) [Per J. Inting, Second Division]; *City of Iloilo v. Honrado*, 775 Phil. 21, 32 (2015) [Per J. Bersamin, First Division], citing *Pahila-Garrido v. Tortogo*, 671 Phil. 320, 338 (2011) [Per J. Bersamin, First Division].

⁴¹ See *Pahila-Garrido v. Tortogo*, 671 Phil. 320, 338 (2011) [Per J. Bersamin, First Division].

The CTA is a special court of the same level as the Court of Appeals (CA), possessing all the inherent powers of a court of justice,⁴² with functions of a trial court,⁴³ much like the Sandiganbayan. Simply put, it is a collegial court; the CTA Divisions and the CTA *En Banc* constitute one and the same body, differentiated only by procedural composition. What sets it apart from the CA and the Sandiganbayan, however, is that it is the only collegial court that sits *en banc* to review decisions or resolutions (on motions for reconsideration or new trial) of its own divisions.

As discussed in *Payumo v. Hon. Sandiganbayan*:⁴⁴

Collegial is defined as relating to a *collegium* or group of colleagues. In turn, the Latin *collegium* is 'an executive body with each member having approximately equal power and authority.' The members of the tax court act on the basis of consensus or majority rule. The three Justices of a Division, rather than a single judge, are naturally expected to exert keener judiciousness and to apply broader circumspection in trying and deciding cases.⁴⁵

As a collegial body, the CTA exercises judicial power through a collective decision-making process by multiple members acting as one entity. Thus, the CTA's authority is not vested in any individual member, nor is it divided into distinct levels between the CTA *En Banc*, on the one hand, and the CTA Division, on the other.

It is worth noting that Republic Act No. 1125, as amended by Republic Act No. 9282 and Republic Act No. 9503, explicitly states that the CTA shall function either *En Banc* or in Divisions, with no indication that either form is inherently superior to the other. The CTA *En Banc* and the CTA Division are merely configurations of the same judicial entity, exercising jurisdiction over tax cases as conferred by law. The CTA *En Banc* is not a separate tribunal relative to its Divisions; rather, it is the same tribunal convened in fuller assembly to exercise specific and limited appellate jurisdiction as vested by the law, not a higher court in a hierarchical sense.

In this regard, the Court declared in *Land Bank of the Philippines v. Suntay*:⁴⁶

The actions taken and the decisions rendered by any of the divisions are those of the Court itself, considering that the divisions are not considered separate and distinct courts but as divisions of one and the same court.⁴⁷

⁴² Republic Act No. 1125, sec. 1, as amended by Republic Act No. 9282 and Republic Act No. 9503. SEC. 1. *Court; Justices, Qualifications; Salary; Tenure.* — There is hereby created a Court of Tax Appeals (CTA) which shall be of the same level as the Court of Appeals, possessing all the inherent powers of a Court of Justice, and shall consist of a Presiding Justice and eight (8) Associate Justices. (Emphasis supplied)

⁴³ Republic Act No. 1125, sec. 8, as amended.

SECTION 8. *Court of record; seal; proceedings.* — The Court of Tax Appeals shall be a court of record and shall have a seal which shall be judicially noticed. (Emphasis supplied)

⁴⁴ 669 Phil 545 (2011) [Per J. Mendoza, Third Division].

⁴⁵ *Id.* at 562.

⁴⁶ 678 Phil. 879 (2011) [Per J. Bersamin, First Division].

⁴⁷ *Id.* at 912.

In *Commissioner of Internal Revenue v. Kepco Ilijan Corporation*,⁴⁸ the Court confirmed that the foregoing principle is likewise applicable to other collegiate courts such as the CTA. In said case, We also stressed the need to preserve the principle that there can be no hierarchy within a collegial court between its Divisions and the *En Banc*, viz.:

But the law and the rules are silent when it comes to a situation similar to the case at bar, in which a court, in this case the Court of Tax Appeals, is called upon to annul its own judgment. More specifically, in the case at bar, the CTA sitting *en banc* is being asked to annul a decision of one of its divisions. However, the laws creating the CTA and expanding its jurisdiction ([Republic Act] Nos. 1125 and 9282) and the court's own rules of procedure (the Revised Rules of the CTA) do not provide for such a scenario.

It is the same situation among other collegial courts. To illustrate, the Supreme Court or the Court of Appeals may sit and adjudicate cases in divisions consisting of only a number of members, and such adjudication is already regarded as the decision of the Court itself. It is provided for in the Constitution, Article VIII, Section 4 (1) and BP Blg. 129, Section 4, respectively. The divisions are not considered separate and distinct courts but are divisions of one and the same court; there is no hierarchy of courts within the Supreme Court and the Court of Appeals, for they each remain as one court notwithstanding that they also work in divisions. The Supreme Court sitting *en banc* is not an appellate court *vis-a-vis* its divisions, and it exercises no appellate jurisdiction over the latter. As for the Court of Appeals *en banc*, it sits as such only for the purpose of exercising administrative, ceremonial, or other non-adjudicatory functions.

Thus, it appears contrary to these features that a collegial court, sitting en banc, may be called upon to annul a decision of one of its divisions which had become final and executory, for it is tantamount to allowing a court to annul its own judgment and acknowledging that a hierarchy exists within such court. In the process, it also betrays the principle that judgments must, at some point, attain finality. A court that can revisit its own final judgments leaves the door open to possible endless reversals or modifications which is anathema to a stable legal system.

Thus, the Revised Rules of the CTA and even the Rules of Court which apply suppletorily thereto provide for no instance in which the *en banc* may reverse, annul or void a *final* decision of a division. Verily, the Revised Rules of the CTA provide for no instance of an annulment of judgment at all. On the other hand, *the Rules of Court, through Rule 47, provides, with certain conditions, for annulment of judgment done by a superior court, like the Court of Appeals, against the final judgment, decision or ruling of an inferior court, which is the Regional Trial Court, based on the grounds of extrinsic fraud and lack of jurisdiction. The Regional Trial Court, in turn, also is empowered to, upon a similar action, annul a judgment or ruling of the Metropolitan or Municipal Trial Courts within its territorial jurisdiction. But, again, the said Rules are silent as to*

⁴⁸ *Commissioner of Internal Revenue v. Kepco Ilijan Corp.*, 787 Phil. 698 (2016) [Per J. Peralta, *En Banc*].

whether a collegial court sitting en banc may annul a final judgment of its own division.

As earlier explained, *the silence of the Rules may be attributed to the need to preserve the principles that there can be no hierarchy within a collegial court between its divisions and the en banc, and that a court's judgment, once final, is immutable.*⁴⁹ (Citations omitted, italics in the original, emphasis supplied)

Since the CTA is a collegial court, the CTA Divisions cannot be treated as "lower courts," but merely as functional configurations of the same judicial entity. The jurisdiction exercised by the CTA Division is not inferior to that of the CTA *En Banc*. As a matter of legal and structural principle, both the CTA *En Banc* and the CTA Division are co-equal manifestations of the same judicial entity.

The Court, in *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division*,⁵⁰ citing *Commissioner of Internal Revenue v. Court of Tax Appeals*,⁵¹ has firmly held that the CTA *En Banc* exercises appellate jurisdiction only over final judgments or orders, never interlocutory ones. This limitation stems in part from the CTA's unique internal structure, which does not allow for continual or piecemeal review of a case. The remedy of *certiorari* presupposes the existence of a judicial hierarchy between the reviewing court and the tribunal being reviewed. In this case, such a hierarchy is absent between the CTA *En Banc* and the CTA Divisions.

Thus, treating the CTA *En Banc* as hierarchically superior would be both conceptually erroneous and jurisprudentially indefensible.

The CTA En Banc's authority to review final decisions, resolutions, or orders of a CTA Division does not make it a separate or higher court, nor does it give supervisory power to issue a writ of certiorari against its Divisions

It must be stressed that under the RRCTA, the CTA *En Banc*'s appellate jurisdiction is limited to decisions or resolutions resolving motions for reconsideration or new trial filed before the CTA Divisions. This presupposes that the case subject to appellate review involves a judgment on the merits or a final disposition. The RRCTA is silent on whether the CTA *En Banc* also exercises original jurisdiction over interlocutory orders or judgments of one of its divisions.⁵²

⁴⁹ *Id.* at 705-707.

⁵⁰ 921 Phil. 1090 (2022) [Per J. Caguioa, First Division].

⁵¹ 765 Phil. 140 (2015) [Per J. Peralta, Third Division].

⁵² A.M. No. 05-11-07-CTA or the Revised Rules of the Court of Tax Appeals, Rule 4.

On this note, when the language of a statute or provision is clear, plain, and free from ambiguity, “it must be given its literal meaning and applied without attempted interpretation.”⁵³ Thus:

A cardinal rule in statutory construction is that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. There is only room for application. As the statute is clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. This is what is known as the plain-meaning rule or *verba legis*. It is expressed in the maxim, *index animi sermo*, or “speech is the index of intention.” Furthermore, there is the maxim *verba legis non est recedendum*, or “from the words of a statute there should be no departure.”⁵⁴

Given the above disquisition, the CTA *En Banc*’s appellate authority is limited to final decisions, resolutions, or orders of the CTA Division—not interlocutory orders thereof—and *does not equate to a grant of supervisory authority akin to that exercised by a higher court over a lower court*. Neither does it vest supervisory powers to issue writs of *certiorari* against the CTA Divisions.

First, appellate jurisdiction is inherently limited to the review of *final* adjudications. It contemplates the correction of errors in final determinations, not the intervention in ongoing proceedings through supervisory writs such as *certiorari*. As the Court held in *Madrigal Transport, Inc. v. Lapanday Holdings Corporation*,⁵⁵ there are substantial distinctions between an “appeal” and “*certiorari*,” particularly as to their purpose and subject matter:

Between an appeal and a petition for *certiorari*, there are substantial distinctions which shall be explained below.

As to the Purpose. Certiorari is a remedy designed for the correction of errors of jurisdiction, not errors of judgment. In *Pure Foods Corporation v. NLRC*, [W]e explained the simple reason for the rule in this light:

When a court exercises its jurisdiction, an error committed while so engaged does not deprive it of the jurisdiction being exercised when the error is committed. If it did, every error committed by a court would deprive it of its jurisdiction and every erroneous judgment would be a void judgment. This cannot be allowed. The administration of justice would not survive such a rule. Consequently, an error of judgment that the court may commit in the exercise of its jurisdiction is not correct[a]ble through the original civil action of *certiorari*.

The supervisory jurisdiction of a court over the issuance of a writ of certiorari cannot be exercised for the purpose of reviewing the intrinsic correctness of a judgment of the lower court — on the basis

⁵³ *Foundation for Economic Freedom v. Energy Regulatory Commission*, G.R. No. 214042, August 13, 2024 [Per J. Lecnes, *En Banc*] at 46. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁵⁴ *Id.* at 46, citing *Bolos v. Bolos*, 648 Phil. 630, 637 (2010) [Per J. Mendoza, Second Division].

⁵⁵ 479 Phil. 768 (2004) [Per J. Panganiban, Third Division].

either of the law or the facts of the case, or of the wisdom or legal soundness of the decision. Even if the findings of the court are incorrect, as long as it has jurisdiction over the case, such correction is normally beyond the province of certiorari. Where the error is not one of jurisdiction, but of an error of law or fact — a mistake of judgment — appeal is the remedy.

.....

As to the Subject Matter. Only judgments or final orders and those that the Rules of Court so declare are appealable. Since the issue is jurisdiction, an original action for certiorari may be directed against an interlocutory order of the lower court prior to an appeal from the judgment; or where there is no appeal or any plain, speedy or adequate remedy.⁵⁶ (Emphases supplied.)

Clearly, appellate jurisdiction and supervisory jurisdiction serve two entirely different legal purposes.

Appellate jurisdiction allows a court to review, reverse, affirm, or modify the *final judgment or final order*. It requires that the proceedings are completed and that a final disposition of the issues has been made. Supervisory jurisdiction, exercised through *certiorari* under Rule 65, on the other hand, is a remedy available while proceedings are still ongoing. It addresses errors of jurisdiction—situations where the tribunal concerned acted without jurisdiction, in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction. It interrupts or corrects proceedings before final judgment to prevent unlawful exercise of judicial power.

As mentioned, the CTA *En Banc*'s jurisdiction to review decisions of the CTA Divisions is confined to final judgments or final orders, as set forth in Section 18 of Republic Act No. 1125, as amended by Republic Act No. 9282:

SEC. 18. *Appeal to the Court of Tax Appeals En Banc.* — No civil proceeding involving matters arising under the National Internal Revenue Code, the Tariff and Customs Code or the Local Government Code shall be maintained, except as herein provided, *until and unless an appeal has been previously filed with the CTA and disposed of in accordance with the provisions of this Act.*

A party adversely affected by a resolution of a Division of the CTA on a motion for reconsideration or new trial, may file a petition for review with the CTA en banc. (Emphasis supplied.)

Nothing in the law authorizes the CTA *En Banc* to intervene in interlocutory matters (i.e., orders issued *during* the course of a case that do not yet fully and finally resolve the parties' rights). As such, the CTA *En Banc*

⁵⁶ *Id.* at 779-781.

may review a CTA Division's decision only after the case has been finally decided or completely disposed of—not while the case remains pending.

Supervisory control over ongoing proceedings of the CTA Division would require a *different and separate* legal authority—one that is not granted by the statutes governing the CTA. Supervisory jurisdiction requires an express power to intervene in mid-proceeding to annul or correct actions not yet final. No such supervisory power, as distinguished from appellate power, is granted to the CTA *En Banc* over the CTA Divisions. It thus, follows that only a *higher and distinct court*, i.e., the Supreme Court possesses supervisory power over the CTA, whether sitting *En Banc* or in division.

For these reasons, it is clear that the CTA *En Banc*'s appellate jurisdiction over final decisions, resolutions or orders does not equate to authority to control or supervise interlocutory matters pending before the CTA Divisions. The functions are distinct: appellate jurisdiction deals with completed proceedings, whereas supervisory jurisdiction through *certiorari* deals with ongoing proceedings. The CTA *En Banc* has only the former.

If the CTA *En Banc* could intervene via *certiorari* in pending cases before a CTA Division, this would disrupt the judicial process by confusing the distinct roles of appellate review (which occurs after finality) and supervisory intervention (which occurs during pendency). Furthermore, it would burden the CTA *En Banc* with acting both as an appellate reviewer and as a supervisory overseer, which, as aforesaid, is not its intended function under the law.

Second, the CTA is created as one court, not a two-tiered judicial entity. As earlier noted, nothing in Republic Act No. 1125, as amended, authorizes the CTA *En Banc* to act as an external supervisor over the CTA Divisions. To imply such a supervisory relationship would be to legislate beyond the statute and alter the fundamental design of the CTA as a singular collegiate court.

Third, to characterize the CTA *En Banc* as a “higher tribunal” relative to the CTA Divisions would violate the principle that jurisdiction must be clearly and explicitly granted by law, never presumed. As the Court accentuated as early as 1982 in *Pepsi-Cola Bottling Company v. Martinez*,⁵⁷ jurisdiction must exist as a matter of law:

Jurisdiction over the subject matter in a judicial proceeding is conferred by the sovereign authority which organizes the court; and it is given only by law. Jurisdiction is never presumed; it must be conferred by law in words that do not admit of doubt.

It thus follows that allowing a Rule 65 *certiorari* petition against a CTA Division's interlocutory order before the CTA *En Banc* would improperly expand the Court *En Banc*'s statutory appellate function, contrary to the

⁵⁷ 198 Phil. 296 (1982) [Per J. Escolin, Second Division].

doctrine that jurisdiction cannot be presumed and must be conferred expressly and unequivocally by law.

Implications on Collegiality and Judicial Impartiality

Allowing a *certiorari* petition against an interlocutory order issued by a CTA Division to be heard by the CTA *En Banc* creates a procedural conundrum: the possibility that the very same justices who issued the challenged order would then adjudicate the alleged grave abuse of discretion stemming from their own actions.

At the heart of the judicial system lies the age-old legal maxim: *nemo debet esse iudex in propria causa* (which translates to no man shall be a judge in his own cause).⁵⁸ This legal principle safeguards the integrity of adjudication by ensuring that disputes are resolved by neutral and impartial decision-makers. To allow the members of the CTA Division to sit in review of their own alleged grave abuse of discretion would erode public confidence in the Judiciary. Moreover, it would gravely undermine the appearance of fairness and judicial neutrality, which are indispensable to the administration of justice.

As pronounced in the case of *Lim Tanhu v. Ramolete*,⁵⁹ the primary purpose of *certiorari* is to ensure that lower courts and tribunals stay within the limits of their lawful authority, protecting due process and preventing injustice from escalating. Although ordinary appeals can correct errors, *certiorari* exists as a faster, special remedy when the trial court's error is so serious and potentially damaging that waiting for a full appeal would worsen the harm, viz.:

The essential purpose of *certiorari* is to keep the proceedings in lower judicial courts and tribunals within legal bounds, so that due process and the rule of law may prevail at all times and arbitrariness, whimsicality and unfairness which justice abhors may immediately be stamped out before graver injury, juridical and otherwise, ensues. While generally these objectives may well be attained in an ordinary appeal, it is undoubtedly the better rule to allow the special remedy of *certiorari* at the option of the party adversely affected, when the irregularity committed by the trial court is so grave and so far reaching in its consequences that the long and cumbersome procedure of appeal will only further aggravate the situation of the aggrieved party because other untoward actuations are likely to materialize as natural consequences of those already perpetrated. If the law were otherwise, *certiorari* would have no reason at all for being.⁶⁰

⁵⁸ *Filipino Metals Corporation v. Ople*, 194 Phil. 200 (1981) [Per C.J. Fernando, Second Division].

⁵⁹ 160 Phil. 1101 (1975) [Per J. Barredo, Second Division].

⁶⁰ *Id.* at 1136.

Bearing in mind the essential purpose of *certiorari*, participation by the same justices in reviewing their own interlocutory acts creates an intolerable risk of actual or perceived bias. Even if recusals could technically be sought or required, the very possibility that such ‘self-review’ could occur within the same tribunal undermines the structural impartiality demanded of judicial proceedings. Indeed, in *In re: Ong*,⁶¹ the Court emphasized the importance of impartiality and propriety in the conduct of the members of the bench, to wit:

A judge must not only be impartial but must also appear to be impartial and that fraternizing with litigants tarnishes this appearance. Public confidence in the Judiciary is eroded by irresponsible or improper conduct of judges. A judge must avoid all impropriety and the appearance thereof. Being the subject of constant public scrutiny, a judge should freely and willingly accept restrictions on conduct that might be viewed as burdensome by the ordinary citizen.

....

Judges must, at all times, be beyond reproach and should avoid even the mere suggestion of partiality and impropriety. Canon 4 of the New Code of Judicial Conduct states that ‘[p]ropriety and the appearance of propriety are essential to the performance of *all* the activities of a judge.’⁶² [Emphasis in the original]

So too, this structural flaw cannot be cured by the internal reconstitution of the *En Banc*’s membership. The issue is not merely the participation of individual justices, but the fact that the same judicial entity—without external review—would be tasked to sit in judgment over its own prior conduct.

It must be emphasized that the procedural device of *certiorari* under Rule 65 of the Rules of Court is designed to serve as an “external check” upon grave abuse of discretion by a lower tribunal. It presupposes a relationship between distinct judicial bodies—one subordinate, and the other superior.⁶³ The fact that some of the members of the CTA *En Banc* are also members of the CTA Division that rendered the assailed order only reinforces the premise that the CTA *En Banc* is not superior to its Divisions; it is merely a different organizational configuration of the same Court. Thus, it is institutionally inappropriate for it to exercise *certiorari* jurisdiction over interlocutory rulings issued by its own Divisions.

As aptly observed by Justice Bacorro-Villena in her Separate Concurring Opinion in the proceedings below, if the CTA, sitting *En Banc*, were to find grounds to issue a writ of *certiorari* against its own Division, it would, in effect, be declaring that it had itself gravely abused its discretion in

⁶¹ 743 Phil. 622 (2014) [*Per Curiam, En Banc*].

⁶² *Id.* at 673–676.

⁶³ *Baterina v. Justice Musngi*, 909 Phil. 83, 93 (2021) [Per J. Inting, Second Division]; *City of Iloilo v. Honrado*, 775 Phil. 21, 32 (2015) [Per J. Bersamin, First Division]; *Pahila-Garrido v. Tortogo*, 671 Phil. 320, 336 (2011) [Per J. Bersamin, First Division]; *Confederation for Unity, Recognition and Advancement of Government Employees v. Abad*, 889 Phil. 699, 726–727 (2020) [Per J. Leonen, *En Banc*].

a manner so wanton, arbitrary, and oppressive as to warrant extraordinary judicial correction.⁶⁴

To put things in proper perspective, the Justices who sit *En Banc* are the same Justices who compose the Divisions; thus, a *certiorari* proceeding would invite them to pass judgment either on their own interlocutory acts or those of their immediate colleagues or equals. Such a situation fundamentally distorts the nature of the extraordinary remedy of *certiorari*, which exists to address only the gravest abuses of discretion amounting to a virtual refusal to perform a positive duty, or acts done with evident passion or hostility, beyond the bounds of lawful authority.⁶⁵

The consequences would be detrimental to the integrity of the institution. *First*, it would erode the principle of collegiality, as judicial deliberation and mutual respect would be supplanted by a climate of internal scrutiny and distrust—turning judicial dialogue into judicial surveillance. *Second*, it would create an inherent conflict of interest, placing Justices in the untenable position of sitting in judgment over the professional conduct of their own peers or even themselves. *Third*, it would inevitably foster a public perception of bias, inconsistency, or institutional disarray, thereby corroding public confidence in the impartiality and credibility of the CTA as a judicial body.

Accordingly, the proper recourse, consistent with the structure of the Judiciary and the nature of *certiorari* as an extraordinary remedy, is to elevate questions of grave abuse of discretion involving interlocutory orders to a higher and distinct tribunal—the Supreme Court. To hold otherwise would not only distort the remedy of *certiorari*, but would also undermine the very principles of due process, collegiality, and judicial impartiality that every litigant is entitled to expect from the CTA.

The alleged implied authority of the CTA En Banc to entertain certiorari petitions against interlocutory orders of a CTA Division cannot be deemed as an inherent power emanating from the grant of its appellate jurisdiction

In *City of Manila v. Hon. Grecia-Cuerdo*,⁶⁶ the Court ruled that for any appellate court such as the CTA to effectively exercise its appellate jurisdiction, it must necessarily possess the authority to issue, among others, a writ of *certiorari*. Accordingly, it can be reasonably concluded that the authority of the CTA to take cognizance of petitions for *certiorari* questioning

⁶⁴ *Rollo*, pp. 55–60.

⁶⁵ *People v. Sandiganbayan*, 723 Phil. 444, 484–485 (2013) [Per J. Bersamin, First Division].

⁶⁶ 726 Phil. 9 (2014) [Per J. Peralta, *En Banc*].

interlocutory orders issued by the Regional Trial Court (RTC) in a local tax case is included in the powers granted by the Constitution, as well as inherent in the exercise of appellate jurisdiction, viz.:

Indeed, in order for any appellate court, to effectively exercise its appellate jurisdiction, it must have the authority to issue, among others, a writ of *certiorari*. In transferring exclusive jurisdiction over appealed tax cases to the CTA, it can reasonably be assumed that the law intended to transfer also such power as is deemed necessary, if not indispensable, in aid of such appellate jurisdiction. There is no perceivable reason why the transfer should only be considered as partial, not total.

....

Consistent with the above pronouncement, this Court has held as early as the case of *J.M. Tuason & Co., Inc. v. Jaramillo, et al.* that "if a case may be appealed to a particular court or judicial tribunal or body, then said court or judicial tribunal or body has jurisdiction to issue the extraordinary writ of *certiorari*, in aid of its appellate jurisdiction." This principle was affirmed in *De Jesus v. Court of Appeals*, where the Court stated that "a court may issue a writ of *certiorari* in aid of its appellate jurisdiction if said court has jurisdiction to review, by appeal or writ of error, the final orders or decisions of the lower court." The rulings in *J.M. Tuason* and *De Jesus* were reiterated in the more recent cases of *Galang, Jr. v. Geronimo* and *Bulilis v. Nuez*.

Furthermore, Section 6, Rule 135 of the present Rules of Court provides that when by law, jurisdiction is conferred on a court or judicial officer, all auxiliary writs, processes and other means necessary to carry it into effect may be employed by such court or officer.

If this Court were to sustain petitioners' contention that jurisdiction over their *certiorari* petition lies with the CA, this Court would be confirming the exercise by two judicial bodies, the CA and the CTA, of jurisdiction over basically the same subject matter — precisely the split-jurisdiction situation which is anathema to the orderly administration of justice. The Court cannot accept that such was the legislative motive, especially considering that the law expressly confers on the CTA, the tribunal with the specialized competence over tax and tariff matters, the role of judicial review over local tax cases without mention of any other court that may exercise such power. Thus, the Court agrees with the ruling of the CA that since appellate jurisdiction over private respondents' complaint for tax refund is vested in the CTA, it follows that a petition for *certiorari* seeking nullification of an interlocutory order issued in the said case should, likewise, be filed with the same court. To rule otherwise would lead to an absurd situation where one court decides an appeal in the main case while another court rules on an incident in the very same case.

Stated differently, it would be somewhat incongruent with the pronounced judicial abhorrence to split jurisdiction to conclude that the intention of the law is to divide the authority over a local tax case filed with the RTC by giving to the CA or this Court jurisdiction to issue a writ of *certiorari* against interlocutory orders of the RTC but giving to the CTA the jurisdiction over the appeal from the decision of the trial court

in the same case. It is more in consonance with logic and legal soundness to conclude that the grant of appellate jurisdiction to the CTA over tax cases filed in and decided by the RTC carries with it the power to issue a writ of certiorari when necessary in aid of such appellate jurisdiction. The supervisory power or jurisdiction of the CTA to issue a writ of certiorari in aid of its appellate jurisdiction should co-exist with, and be a complement to, its appellate jurisdiction to review, by appeal, the final orders and decisions of the RTC, in order to have complete supervision over the acts of the latter.

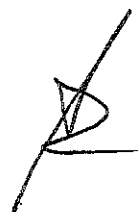
A grant of appellate jurisdiction implies that there is included in it the power necessary to exercise it effectively, to make all orders that will preserve the subject of the action, and to give effect to the final determination of the appeal. It carries with it the power to protect that jurisdiction and to make the decisions of the court thereunder effective. The court, in aid of its appellate jurisdiction, has authority to control all auxiliary and incidental matters necessary to the efficient and proper exercise of that jurisdiction. For this purpose, it may, when necessary, prohibit or restrain the performance of any act which might interfere with the proper exercise of its rightful jurisdiction in cases pending before it.

Lastly, it would not be amiss to point out that a court which is endowed with a particular jurisdiction should have powers which are necessary to enable it to act effectively within such jurisdiction. These should be regarded as powers which are inherent in its jurisdiction and the court must possess them in order to enforce its rules of practice and to suppress any abuses of its process and to defeat any attempted thwarting of such process.

In this regard, Section 1 of [Republic Act] No. 9282 states that the CTA shall be of the same level as the CA and shall possess all the inherent powers of a court of justice.

Indeed, courts possess certain inherent powers which may be said to be implied from a general grant of jurisdiction, in addition to those expressly conferred on them. These inherent powers are such powers as are necessary for the ordinary and efficient exercise of jurisdiction; or are essential to the existence, dignity and functions of the courts, as well as to the due administration of justice; or are directly appropriate, convenient and suitable to the execution of their granted powers; and include the power to maintain the court's jurisdiction and render it effective in behalf of the litigants.

Thus, this Court has held that "while a court may be expressly granted the incidental powers necessary to effectuate its jurisdiction, a grant of jurisdiction, in the absence of prohibitive legislation, implies the necessary and usual incidental powers essential to effectuate it, and, subject to existing laws and constitutional provisions, every regularly constituted court has power to do all things that are reasonably necessary for the administration of justice within the scope of its jurisdiction and for the enforcement of its judgments and mandates." Hence, demands, matters or questions ancillary or incidental to, or growing out of, the main action, and coming within the above principles, may be taken cognizance of by the court and determined, since such jurisdiction is in aid of its authority over the principal matter, even though the court may thus be



called on to consider and decide matters which, as original causes of action, would not be within its cognizance.

Based on the foregoing disquisitions, *it can be reasonably concluded that the authority of the CTA to take cognizance of petitions for certiorari questioning interlocutory orders issued by the RTC in a local tax case is included in the powers granted by the Constitution as well as inherent in the exercise of its appellate jurisdiction.*⁶⁷ (Emphasis in the original, citations omitted)

Although the Court adjudged that the grant of appellate jurisdiction to a CTA Division over tax cases filed in and decided by the RTC carries with it the power to issue a writ of *certiorari* when necessary in aid of such appellate jurisdiction, the same cannot be said with respect to the grant of appellate jurisdiction to the CTA *En Banc* over tax cases filed in and decided by a CTA Division. It must be emphasized that in *Grecia-Cuerdo*, two distinct courts were involved—the CTA and the RTC—and the CTA exercises appellate jurisdiction over the RTC in relation to local tax cases.

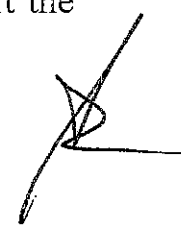
Unlike the CTA Division and the RTC, which are separate and distinct judicial entities, no relationship of superiority exists between the CTA *En Banc* and the CTA Division, as they are merely different organizational configurations of the same judicial entity. Although the CTA *En Banc* exercises appellate jurisdiction over the final judgments or orders of its Divisions, they still constitute one court.

This distinction is critical when considering the voting requirements for reversing a decision of a CTA Division. As Section 2 of Republic Act No. 1125, as amended, explicitly states, five affirmative votes from the CTA *En Banc* are necessary to reverse a Division's decision in an ordinary appeal. This strict threshold applies even when an interlocutory order's reversal leads to the overall reversal of a Division's decision. However, if the same interlocutory order were challenged via a *certiorari* petition alleging grave abuse of discretion, only a simple majority of Justices present would be required for reversal.

This dissonance would allow circumvention of the normal appeals process and flood the CTA *En Banc* with *certiorari* petitions, thereby undermining both procedural order and the extraordinary nature of the writ.

Given that *certiorari* is an extraordinary remedy intended to correct grave errors of jurisdiction committed during the pendency of a case—not after finality—its exercise must be directed to a higher and distinct tribunal. Since the CTA *En Banc* and its Divisions are merely different conformations of the same collegial body, the Supreme Court is the proper forum for addressing grave abuse of discretion in interlocutory orders from a CTA Division, not the CTA *En Banc*. Any other interpretation would distort the

⁶⁷ *City of Manila v. Hon. Grecia-Cuerdo*, 726 Phil. 9, 24-28 (2014) [Per J. Peralta, *En Banc*].



CTA's structural design, compromise judicial impartiality, and impede the orderly administration of justice.

Legislative intent does not support granting the CTA En Banc certiorari jurisdiction over interlocutory orders issued by its divisions

In addition to the above disquisition, as raised by the esteemed Justice Caguioa in the deliberations, the legislative intent behind Republic Act No. 9282 does not support the characterization of the CTA *En Banc* as a superior tribunal over its own divisions. Senate President Franklin M. Drilon, in his sponsorship speech before Republic Act No. 9282 became a law, clarified the purpose of the amendment:⁶⁸

This bill is entitled "An Act Expanding The Jurisdiction of the Court of Tax Appeals (CTA), *Elevating Its Rank to the Level of a Collegiate Court With Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as Amended, Otherwise Known as the Law Creating the Court of Tax Appeals and For Other Purposes.*"

The measure also expands the organization and most importantly *its level is raised to that of the Court of Appeals.*

....

*Mr. President, another important feature of this measure is that appeals from decisions of the Court of Tax Appeals are no longer appealable to the Court of Appeals. Under the modified appeal procedure, the decision of a division of the Court of Tax Appeals may be appealed to the Court of Tax Appeals en banc. The decision of the Court of Tax Appeals en banc may in turn be directly appealed to the Supreme Court only on a question of law. This is expected to facilitate court proceedings in tax cases since the Court of Tax Appeals has admittedly the necessary expertise in tax matters. Moreover, there will be less divisive rulings on tax matters since appeal shall be made only to the Court of Tax Appeals en banc instead of the Court of Appeals with its many divisions.*⁶⁹
(Emphasis supplied)

Republic Act No. 9282 did not create a hierarchy between the CTA *En Banc* and its divisions. It simply granted the CTA *En Banc* an exclusive appellate jurisdiction over final decisions or resolutions issued by its divisions. In essence, Republic Act No. 9282 established an appellate structure that allows the full court to collectively review rulings of its divisions.

There is no language in the Committee Hearing indicating that Congress viewed the CTA Division and the CTA *En Banc* as institutionally

⁶⁸ Separate Concurring Opinion, pp. 10–11, 15.

⁶⁹ Sponsorship Speech of Senator Franklin M. Drilon, delivered on December 1, 2003. III Record, Senate 12th Congress, Third Session, pp. 50–53.

independent courts. On the contrary, the deliberations point to a single specialized court, structured internally into Divisions and *En Banc* for functional efficiency. To infer otherwise from generalized remarks is to read more into the record than its text or context permits.

In sum, as Justice Caguioa highlighted, the legislative deliberations do not support the proposition that the CTA *En Banc* was meant to exercise *certiorari* jurisdiction over interlocutory orders issued by the CTA Division. What they confirm is the realignment of appellate functions and the desire for review of final judgments within the CTA before proceeding to the Court. There is no indication that Congress intended to create two distinct courts within the CTA. What the deliberations instead reveal is a structural realignment such that appeals from CTA Divisions, which would previously have been brought to the CA, were to be resolved by the CTA *En Banc* to promote judicial specialization and efficiency in tax adjudication.⁷⁰

Petitions for certiorari assailing interlocutory orders of CTA Divisions are cognizable by the Supreme Court

Finally, the Court again underlines that a petition for *certiorari* under Rule 65 of the Rules of Court is an original or independent action premised on the public respondent having acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction. However, since a *certiorari* petition is not a continuation of the appellate process borne out of the original case but is a separate action focused on actions that are in excess or wanting of jurisdiction, then it cannot be filed in the same tribunal whose actions are being assailed but is instead cognizable by a higher tribunal which, in the case of the CTA, is this Court.⁷¹

Parenthetically, as astutely reminded by Justice Dimaampao in the deliberations,⁷² our Rules of Court do not allow appeals for interlocutory orders.⁷³ The reason is rooted in necessity and in recognizing the fallibility of human judgment. Judges should be allowed to correct interlocutory orders while the case remains within their jurisdiction. In addition, the prohibition seeks to avoid multiplicity of appeals in a single action which adds significant delay to the proceedings and the resolution of cases.⁷⁴ Hence, *interlocutory orders may only be assailed by a writ of certiorari.*

Without a doubt, the Court has ruled against the power of the CTA *En Banc* to issue writs of *certiorari* on interlocutory orders of the CTA Division,

⁷⁰ Separate Concurring Opinion, pp. 10–11, 15.

⁷¹ Separate Concurring Opinion, pp. 9 and 13.

⁷² Separate Concurring Opinion, p. 6.

⁷³ RULES OF COURT, Rule 41, sec. 1.

⁷⁴ See *Santos v. People*, 585 Phil. 337, 356 (2008), [Per J. Chico-Nazario, Third Division].

as these interlocutory orders should be properly subject to a Rule 65 petition before the Supreme Court.⁷⁵

A review of jurisprudence shows that the Court has consistently ruled against the authority of the CTA *En Banc* to take cognizance of *certiorari* petitions on interlocutory orders of the CTA Division for two reasons: (1) Republic Act No. 9282 and the RRCTA do not provide for such *certiorari* jurisdiction of the CTA *En Banc*, and (2) a petition for *certiorari* is a special civil action raising issues of lack or excess of jurisdiction; thus, it cannot be filed in the same tribunal whose actions are being assailed. Instead, it is cognizable by a higher tribunal, which, in the case of the CTA, is the Supreme Court.

Indeed, in *Commissioner of Internal Revenue v. Court of Tax Appeals*,⁷⁶ it was clarified that the CTA *En Banc* has jurisdiction over final order or judgment but not over interlocutory orders issued by the CTA Division.⁷⁷ In said case, it was explained that a petition for *certiorari* filed before the Supreme Court is the proper remedy to assail interlocutory orders issued by the CTA.⁷⁸

This was further underlined in *Commissioner of Internal Revenue v. Court of Tax Appeals (First Division)*,⁷⁹ where the Court held that the CTA *En Banc* has no jurisdiction over the CTA Division's denial of the omnibus motion, being an interlocutory order. In *Commissioner of Internal Revenue v. Court of Tax Appeals-Third Division*,⁸⁰ the Court reiterated said rule on jurisdiction and adjudged that being interlocutory orders, the assailed Resolutions therein were the proper subject of a Rule 65 petition. This is again underscored in the more recent case of *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division*,⁸¹ where it was repeated that the CTA *En Banc* has jurisdiction over a final judgment or order, but not over an interlocutory order issued by the CTA Division.

Moreover, the writ of *certiorari* is a remedy specifically to keep lower courts and tribunals within the bounds of their jurisdiction. In our judicial system, the writ is issued to prevent lower courts and tribunals from committing grave abuse of discretion in excess of their jurisdiction.⁸²

⁷⁵ See *Commissioner of Internal Revenue v. Court of Tax Appeals*, 765 Phil. 140, 153 (2015) [Per J. Peralta, Third Division], *Commissioner of Internal Revenue v. Court of Tax Appeals (First Division)*, 898 Phil. 131, 229 (2021) [Per J. Perlas-Bernabe, Second Division], *Commissioner of Internal Revenue v. Court of Tax Appeals-Third Division*, 902 Phil. 446, 457 (2021) [Per J. Leonen, Third Division]; *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division*, 921 Phil. 1090, 1096 (2022) [Per J. Caguioa, First Division].

⁷⁶ 765 Phil. 140 (2015) [Per J. Peralta, Third Division].

⁷⁷ *Id.* at 151.

⁷⁸ *Id.* at 153.

⁷⁹ 898 Phil. 131 (2021) [Per J. Perlas-Bernabe, Second Division].

⁸⁰ 902 Phil. 446 (2021) [Per J. Leonen, Third Division].

⁸¹ 921 Phil. 1090 (2022) [Per J. Caguioa, First Division].

⁸² See *Cruz v. People*, 812 Phil. 166, 177 (2017) [Per J. Leonen, Second Division].

It also bears stressing that this Court has not recused itself in, refused to act upon, or ordered the remand to the CTA *En Banc* of, petitions for *certiorari* filed before the Court assailing interlocutory orders of the CTA Division.

Conclusion

To summarize, the CTA *En Banc* has no jurisdiction to entertain a petition for *certiorari* against interlocutory orders issued by a CTA Division. *First*, the CTA *En Banc*'s jurisdiction is strictly appellate; besides, the exercise of *certiorari* presupposes a relationship of superiority. *Second*, to rule that a hierarchy exists between the CTA *En Banc* and the CTA Divisions is contrary to the CTA's very nature as a collegial body. *Third*, the CTA *En Banc*'s authority to review final decisions, resolutions, or orders of a CTA Division does not transform it into a separate or superior court, nor does it vest it with supervisory power to issue a writ of *certiorari* against its Divisions. *Fourth*, it is inappropriate to allow members of the CTA Division to sit as members of the CTA *En Banc* and pass judgment on their own actions in a *certiorari* proceeding. *Fifth*, the supposed authority of the CTA *En Banc* to entertain *certiorari* petitions cannot be considered an inherent power implied from its appellate jurisdiction, as it is neither essential to its existence nor consistent with its dignity and function. *Sixth*, legislative intent does not support granting the CTA *En Banc* *certiorari* jurisdiction over interlocutory orders issued by its Divisions. Ultimately, petitions for *certiorari* assailing interlocutory orders of the CTA Divisions are cognizable by the Supreme Court.

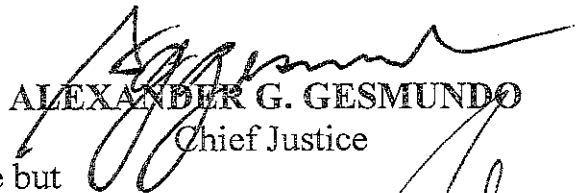
In fine, the rule of law demands both substance and form. The structure of the CTA, the limited scope of the CTA *En Banc*'s jurisdiction, the need for judicial impartiality, and the nature of *certiorari* as a remedy all point to the same conclusion: the CTA *En Banc* has no jurisdiction over interlocutory orders issued by its own Divisions via a Rule 65 petition.

ACCORDINGLY, the instant Petition for Review on *Certiorari* is hereby **DENIED**. The assailed Decision dated August 29, 2023 and Resolution dated January 26, 2024 of the Court of Tax Appeals *En Banc* are **AFFIRMED**.

SO ORDERED.

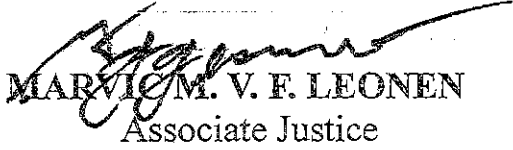

RODIL V. ZALAMEDA
Associate Justice

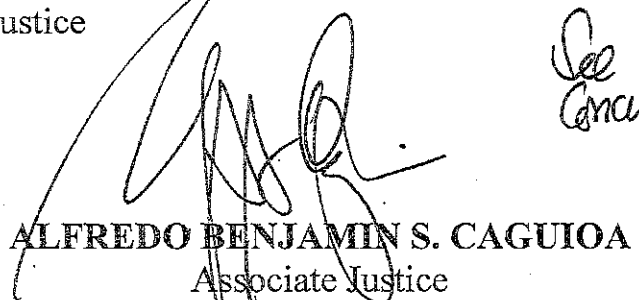
WE CONCUR:


ALEXANDER G. GESMUNDO
 Chief Justice

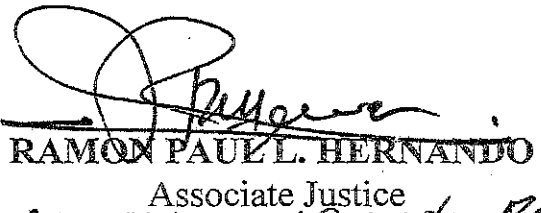
On official leave but
left dissenting opinion

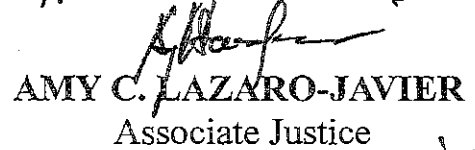
*See
Concurring*


MARVIC M. V. F. LEONEN
 Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
 Associate Justice

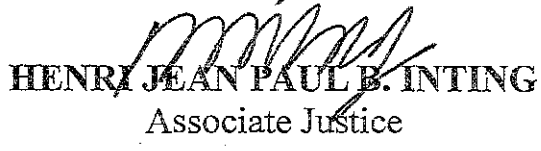
Pls. see Dissent

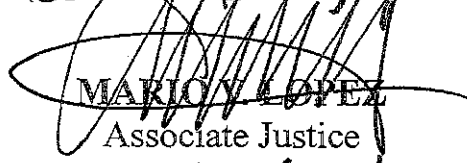

RAMON PAUL L. HERNANDO
 Associate Justice


AMY C. LAZARO-JAVIER
 Associate Justice

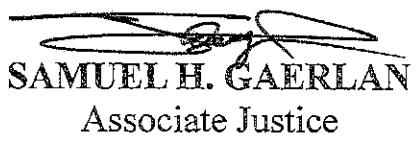
see concurring and dissenting opinion

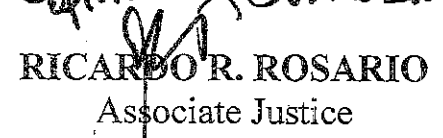
Pls. see dissenting opinion


HENRI JEAN PAUL B. INTING
 Associate Justice

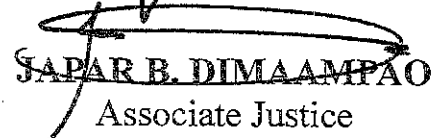

MARIO Y. LOPEZ
 Associate Justice

*I am joining the dissenting
opinion of Justice Sotelo*

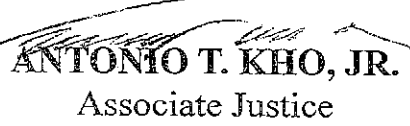

SAMUEL H. GAERLAN
 Associate Justice

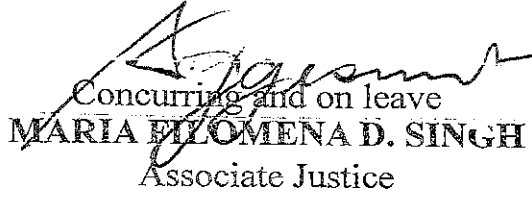

RICARDO R. ROSARIO
 Associate Justice


JHOSEP M. LOPEZ
 Associate Justice


SAPAR B. DIMAAMPAO
 Associate Justice

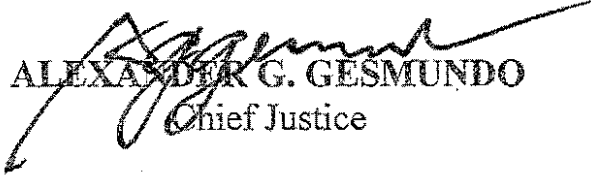

JOSE MIDAS P. MARQUEZ
 Associate Justice


ANTONIO T. KHO, JR.
 Associate Justice


 Concurring and on leave
MARIA FILOMENA D. SINGH
 Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.



ALEXANDER G. GESMUNDO
Chief Justice

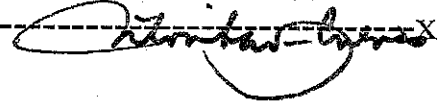
EN BANC

G.R. No. 271701 – COMMISSIONER OF INTERNAL REVENUE
Petitioner, v. NIPPON EXPRESS PHILIPPINES CORPORATION,
Respondent.

Promulgated:

May 6, 2025

X-----



CONCURRING AND DISSENTING OPINION

LEONEN, *SAJ*:

I concur with the majority that the Petition for Review on *Certiorari* should be denied since its subject matter has already become moot. However, I maintain that a petition for *certiorari* under Rule 65 of the Rules of Court, challenging an interlocutory order of a Court of Tax Appeals (CTA) division, falls under the jurisdiction of the CTA *En Banc*.

The CTA, which was created through the enactment of Republic Act No. 1125, is the tribunal with specialized competence over tax and tariff matters.¹

Republic Act No. 9282 then enlarged the CTA's membership, expanded its jurisdiction, and elevated its level to a collegiate court with special jurisdiction. Section 11 states that “[a] party adversely affected by a resolution of a Division of the CTA on a motion for reconsideration or new trial may file a petition for review with the CTA *en banc*.”²

Republic Act No. 9503 further enlarged the organizational structure of the CTA, increasing its membership to a Presiding Justice and eight Associate Justices.³ Now, the CTA may sit in three divisions.⁴

The following are the cases within the exclusive appellate jurisdiction of the CTA *En Banc*. Among these are decisions, resolutions or orders of the CTA division in the enumerated cases:⁵

¹ *Bureau of Customs v. Honorable Agnes VST Devanadera*, 769 Phil. 231, 254 (2015) [Per J. Peralta, *En Banc*], Republic Act No. 1125 (1954).

² Republic Act No. 9282 (2004), sec. 11.

³ Republic Act No. 9503 (2008), sec. 1.

⁴ Republic Act No. 9503 (2008), sec. 2.

⁵ CTA RULES, Rule 4, sec. 2.



SEC. 2. *Cases within the jurisdiction of the Court en banc.* – The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:

(1) Cases arising from administrative agencies – Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture;

(2) Local tax cases decided by the Regional Trial Courts in the exercise of their original jurisdiction; and

(3) Tax collection cases decided by the Regional Trial Courts in the exercise of their original jurisdiction involving final and executory assessments for taxes, fees, charges and penalties, where the principal amount of taxes and penalties claimed is less than one million pesos;

(b) Decisions, resolutions or orders of the Regional Trial Courts in local tax cases decided or resolved by them in the exercise of their appellate jurisdiction;

(c) Decisions, resolutions or orders of the Regional Trial Courts in tax collection cases decided or resolved by them in the exercise of their appellate jurisdiction;

(d) Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive original jurisdiction over tax collection cases;

(e) Decisions of the Central Board of Assessment Appeals (CBAA) in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals;

(f) Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive original jurisdiction over cases involving criminal offenses arising from violations of the National Internal Revenue Code or the Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue or Bureau of Customs;

(g) Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive appellate jurisdiction over criminal offenses mentioned in the preceding subparagraph; and

(h) Decisions, resolutions or orders of the Regional trial Courts in the exercise of their appellate jurisdiction over criminal offenses mentioned in subparagraph (f).⁶

⁶ *Id.*

Notably, the law neither expressly grants nor prohibits the CTA *En Banc* from issuing writs of *certiorari* over cases that it has exclusive appellate jurisdiction over.

In collegiate courts, such as in the Supreme Court or the Court of Appeals, the adjudication of its division is regarded as the decision of the Court itself. The Supreme Court and the Court of Appeals sitting *En Banc* have no appellate jurisdiction over their respective divisions and there is no hierarchy of courts within them:⁷

It is the same situation among other collegial courts. To illustrate, the Supreme Court or the Court of Appeals may sit and [adjudicate] cases in divisions consisting of only a number of members, and such adjudication is already regarded as the decision of the Court itself. It is provided for in the Constitution, Article VIII, Section 4(1) and BP Blg. 129, Section 4, respectively. The divisions are not considered separate and distinct courts but are divisions of one and the same court; there is no hierarchy of courts within the Supreme Court and the Court of Appeals, for they each remain as one court notwithstanding that they also work in divisions. The Supreme Court sitting *en banc* is not an appellate court vis-a-vis its divisions, and it exercises no appellate jurisdiction over the latter. As for the Court of Appeals *en banc*, it sits as such only for the purpose of exercising administrative, ceremonial, or other non-adjudicator/functions.⁸ (Citations omitted)

However, this is not the case with the Court of Tax Appeals. As pointed out by the majority, it is the only collegial court that sits *en banc* to review the decisions, resolutions, or orders on motions for reconsideration or new trial of its own divisions.⁹ Although the explicit grant of exclusive appellate jurisdiction to the CTA *En Banc* does not make it a separate and superior court, it creates a semblance of hierarchy that enables it to take cognizance of a petition for *certiorari* challenging the interlocutory orders of the CTA divisions.

Rule 65, Section 1 of the Rules of Court regulates the exercise of the power to issue the writ of *certiorari*:

Section 1. *Petition for certiorari.* — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or

⁷ *Commissioner of Internal Revenue v. Kepco Ilijan Corporation*, 787 Phil. 698 (2016) [Per J. Peralta, *En Banc*].

⁸ *Id.* at 705–706.

⁹ *Ponencia*, pp. 13–14.

modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46.¹⁰

Being an extraordinary writ, it should only be issued when a tribunal acted with grave abuse of discretion amounting to a lack or excess of jurisdiction. It is a remedy to ensure that the lower courts and tribunals stay within the bounds of their jurisdiction. Grave abuse of discretion is the "capricious or whimsical exercise of judgment that is patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform a duty enjoined by law."¹¹

The writ of certiorari is not issued to correct every error that may have been committed by lower courts and tribunals. It is a remedy specifically to keep lower courts and tribunals within the bounds of their jurisdiction. In our judicial system, the writ is issued to prevent lower courts and tribunals from committing grave abuse of discretion in excess of their jurisdiction. Further, the writ requires that there is no appeal or other plain, speedy, and adequate remedy available to correct the error. Thus, certiorari may not be issued if the error can be the subject of an ordinary appeal. As explained in *Delos Santos v. Metrobank*:

.....

An essential requisite for filing a petition for certiorari is the allegation that the judicial tribunal acted with grave abuse of discretion amounting to lack or excess of jurisdiction. Grave abuse of discretion has been defined as a "capricious or whimsical exercise of judgment that is patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform a duty enjoined by law." In order to determine whether the Court of Appeals erred in dismissing the Petition for Certiorari for being the wrong remedy, it is necessary to find out whether the Regional Trial Court acted with grave abuse of discretion as to warrant the filing of a petition for certiorari against it.¹² (Citations omitted)

The origins of the writ of *certiorari* from common law jurisdiction and its evolution and application in our jurisdiction are expounded in *Spouses Delos Santos v. Metropolitan Bank and Trust Company*.¹³

We remind that the writ of *certiorari* – being a remedy narrow in scope and inflexible in character, whose purpose is to keep an inferior court within the bounds of its jurisdiction, or to prevent an inferior court from committing such grave abuse of discretion amounting to excess of jurisdiction, or to relieve parties from arbitrary acts of courts (*i.e.*, acts that

¹⁰ RULES OF COURT, Rule 65, sec. 1.

¹¹ *Cruz v. People*, 812 Phil. 166, 173 (2017) [Per J. Leonen, Second Division]. (Citation omitted)

¹² *Id.* at 171–173.

¹³ 698 Phil. 1 (2012) [Per J. Bersamin, First Division].

courts have no power or authority in law to perform) – is not a general utility tool in the legal workshop, and cannot be issued to correct every error committed by a lower court.

In the common law, from which the remedy of *certiorari* evolved, the writ of *certiorari* was issued out of Chancery, or the King's Bench, commanding agents or officers of the inferior courts to return the record of a cause pending before them, so as to give the party more sure and speedy justice, for the writ would enable the superior court to determine from an inspection of the record whether the inferior court's judgment was rendered without authority. The errors were of such a nature that, if allowed to stand, they would result in a substantial injury to the petitioner to whom no other remedy was available. If the inferior court acted without authority, the record was then revised and corrected in matters of law. The writ of *certiorari* was limited to cases in which the inferior court was said to be exceeding its jurisdiction or was not proceeding according to essential requirements of law and would lie only to review judicial or quasi-judicial acts.

The concept of the remedy of *certiorari* in our judicial system remains much the same as it has been in the common law. In this jurisdiction, however, the exercise of the power to issue the writ of *certiorari* is largely regulated by laying down the instances or situations in the *Rules of Court* in which a superior court may issue the writ of *certiorari* to an inferior court or officer.¹⁴ (Citations omitted)

In *City of Manila v. Grecia-Cuerdo*,¹⁵ petitioners filed a petition for *certiorari* before the Court of Appeals assailing the orders of the Regional Trial Court (RTC), which granted respondent's application for a writ of preliminary injunction in a local tax case. The Court ruled that the CTA's authority to take cognizance of petitions for *certiorari* questioning interlocutory orders issued by the RTC in a local tax case is included in the powers granted by the Constitution and is inherent in the exercise of its appellate jurisdiction.¹⁶

In ruling as such, this Court explained that the exercise of a court's appellate jurisdiction should include the authority to control all auxiliary and incidental matters necessary to the efficient and proper exercise of that jurisdiction. When needed, it should be able to prohibit or restrain any acts that might hinder the proper exercise of its jurisdiction in ongoing cases. Thus, the power to issue writs of *certiorari* complements the exercise of a court's appellate jurisdiction.¹⁷ It further discussed:

Indeed, in order for any appellate court to effectively exercise its appellate jurisdiction, it must have the authority to issue, among others, a writ of *certiorari*. In transferring exclusive jurisdiction over appealed tax cases to the CTA, it can reasonably be assumed that the law intended to transfer also such power as is deemed necessary, if not indispensable, in aid

¹⁴ *Id.* at 14–15.

¹⁵ 726 Phil. 9 (2014) [Per J. Peralta, *En Banc*].

¹⁶ *Id.* at 27–28.

¹⁷ *Id.* at 24–27.

of such appellate jurisdiction. There is no perceivable reason why the transfer should only be considered as partial, not total.

Consistent with the above pronouncement, this Court has held as early as the case of *J.M. Tuason & Co., Inc. v. Jaramillo, et al.* that “if a case may be appealed to a particular court or judicial tribunal or body, then said court or judicial tribunal or body has jurisdiction to issue the extraordinary writ of *certiorari*, in aid of its appellate jurisdiction.” This principle was affirmed in *De Jesus v. Court of Appeals*, where the Court stated that “a court may issue a writ of *certiorari* in aid of its appellate jurisdiction if said court has jurisdiction to review, by appeal or writ of error, the final orders or decisions of the lower court.” The rulings in *J.M. Tuason* and *De Jesus* were reiterated in the more recent cases of *Galang, Jr. v. Geronimo* and *Bulilis v. Nuez*.

....

A grant of appellate jurisdiction implies that there is included in it the power necessary to exercise it effectively, to make all orders that will preserve the subject of the action, and to give effect to the final determination of the appeal. It carries with it the power to protect that jurisdiction and to make the decisions of the court thereunder effective. *The court, in aid of its appellate jurisdiction, has authority to control all auxiliary and incidental matters necessary to the efficient and proper exercise of that jurisdiction. For this purpose, it may, when necessary, prohibit or restrain the performance of any act which might interfere with the proper exercise of its rightful jurisdiction in cases pending before it.*

Lastly, it would not be amiss to point out that a court which is endowed with a particular jurisdiction should have powers which are necessary to enable it to act effectively within such jurisdiction. These should be regarded as powers which are inherent in its jurisdiction and the court must possess them in order to enforce its rules of practice and to suppress any abuses of its process and to defeat any attempted thwarting of such process.

....

Indeed, courts possess certain inherent powers which may be said to be implied from a general grant of jurisdiction, in addition to those expressly conferred on them. These inherent powers are such powers as are necessary for the ordinary and efficient exercise of jurisdiction; or are essential to the existence, dignity and functions of the courts, as well as to the due administration of justice; or are directly appropriate, convenient and suitable to the execution of their granted powers; and include the power to maintain the court's jurisdiction and render it effective in behalf of the litigants.¹⁸ (Emphasis supplied, citations omitted)

The ruling in *City of Manila* is subsequently applied in *CE Casecan Water and Energy Company, Inc. v. Province of Nueva Ecija*¹⁹ and *Republic v. City of Surigao*.²⁰

¹⁸ *Id.*

¹⁹ 760 Phil. 835 (2015) [Per J. Del Castillo, Second Division].

²⁰ 929 Phil. 255 (2022) [Per J. M.V. Lopez, Second Division].

In *CE Casecanan*, the Court affirmed the CTA's authority to issue a writ of *certiorari* and reiterated that "if a case may be appealed to a particular court or judicial tribunal or body, then said court or judicial tribunal or body has jurisdiction to issue the extraordinary writ of *certiorari*, in aid of its appellate jurisdiction."²¹

In *City of Surigao*, a case involving local taxation, this Court affirmed that the CTA's exclusive appellate jurisdiction over a decision of the RTC necessarily includes the authority to determine whether the RTC acted with grave abuse of discretion amounting to lack or excess of jurisdiction in issuing an interlocutory order relative to the main action.²²

Meanwhile, the power of the CTA *En Banc* to issue a petition for *certiorari* over cases resolved by its division in criminal cases was settled by this Court in *People v. Court of Tax Appeals*.²³

In *People v. Court of Tax Appeals*, the CTA Third Division acquitted the accused of several criminal charges of failure to supply correct and accurate information in their joint Income Tax Return (ITR) for taxable year 2001 and failure to report their income in their ITRs for taxable years 2002, 2003, and 2004. The petitioners in this case filed a petition for *certiorari* before this Court, alleging that the acquittal is tainted with grave abuse of discretion amounting to a lack or excess of jurisdiction.²⁴

The Court applied the ruling in *City of Manila* by analogy and made a pronouncement that "the CTA *En Banc*'s exclusive appellate jurisdiction over decisions, resolutions, or orders of a division of the CTA under Section 2(f) of the CTA Rules includes the authority to resolve petitions for *certiorari* assailing the decision, resolution, or order of a CTA division."²⁵

Citing the case of *City of Manila*, the Court reiterated in *The Philippine American Life and General Insurance Co. v. Secretary of Finance*, that the CTA has the power of *certiorari* in cases within its appellate jurisdiction, *viz.*:

Evidently, *City of Manila* can be considered as a departure from *Ursal* in that in spite of there being no express grant in the law, the CTA is deemed granted with powers of *certiorari* by implication. Moreover, *City of Manila* diametrically opposes *British American Tobacco* to the effect that it is now within the power of the CTA, through its power of *certiorari*, to rule on the validity of a particular administrative rule or regulation so long as it is within its appellate jurisdiction. Hence, it can now rule not only on

²¹ 760 Phil. 835, 843 (2015) [Per J. Del Castillo, Second Division]. (Citation omitted)

²² 929 Phil. 255, 263 (2022) [Per J. M.V. Lopez, Second Division].

²³ 932 Phil. 139 (2022) [Per J. Inting, Third Division].

²⁴ *Id.* at 140, 150.

²⁵ *Id.* at 154.

the propriety of an assessment or tax treatment of a certain transaction, but also on the validity of the revenue regulation or revenue memorandum circular on which the said assessment is based[.]

By analogy, the *CTA En Banc*'s exclusive appellate jurisdiction over decisions, resolutions, or orders of a division of the CTA under Section 2(f) of the CTA Rules includes the authority to resolve petitions for *certiorari* assailing the decision, resolution, or order of a CTA division.

The Court is mindful that *City of Manila* and the aforementioned cases echoing the CTA's jurisdiction in *certiorari* cases were civil actions—assailing either an interlocutory order or the validity of a revenue regulation or memorandum circular—while the present petition involves multiple criminal actions against accused-respondents. The rationale, however, in *City of Manila* likewise applies here. It is an “anathema to the orderly administration of justice” if there will be a split jurisdiction between the *CTA En Banc* and the Court over petitions for *certiorari*. There is no justifiable reason for the Court to exclude criminal cases from the *certiorari* jurisdiction of the *CTA En Banc*.

It is also worthy to note that under Section 2(f), Rule 4 of the CTA Rules, there is no distinction between a judgment of conviction and acquittal. “Where the law does not distinguish, we should not also distinguish. *Ubi lex non distinguit, nec nos distinguere debemus.*” Thus, the *CTA En Banc* similarly have jurisdiction over the present Rule 65 petition assailing the CTA Third's Division judgment of acquittal.²⁶ (Citation omitted)

This Court also declared that a petition for *certiorari* should be filed first with the *CTA En Banc* in line with the doctrine of hierarchy of courts. Only after the *CTA En Banc* renders its decision or resolution that the party adversely affected may appeal by filing a petition for review on *certiorari* under Rule 45 of the Rules of Court before this Court.²⁷

A deviation from the ruling in *City of Manila* and *People v. Court of Tax Appeals* is not warranted. Since the power to issue a writ of *certiorari* is not only necessary but is indispensable in the effective and efficient exercise of appellate jurisdiction, the *CTA En Banc* should also have the authority to take cognizance of a petition for *certiorari* challenging an interlocutory order of a Court of Tax Appeals division.

Aside from this, the rule that the authority to issue writs of *certiorari* must be expressly conferred by the Constitution or by law and cannot be implied from the grant of appellate jurisdiction only applies to quasi-judicial tribunals or bodies:²⁸

The prevailing doctrine is that the authority to issue writs of *certiorari* involves the exercise of original jurisdiction which must be

²⁶ *Id.* at 153–154.

²⁷ *Id.* at 154.

²⁸ *City of Manila v. Grecia-Cuerdo*, 726 Phil. 9, 28 (2014) [Per J. Peralta, *En Banc*].

expressly conferred by the Constitution or by law and cannot be implied from the mere existence of appellate jurisdiction. Thus, in the cases of *Pimentel v. COMELEC*, *Garcia v. De Jesus*, *Veloria v. COMELEC*, *Department of Agrarian Reform Adjudication Board v. Lubrica*, and *Garcia v. Sandiganbayan*, this Court has ruled against the jurisdiction of courts or tribunals over petitions for *certiorari* on the ground that there is no law which expressly gives these tribunals such power. *It must be observed, however, that with the exception of Garcia v. Sandiganbayan, these rulings pertain not to regular courts but to tribunals exercising quasi-judicial powers.* With respect to the Sandiganbayan, Republic Act No. 8249 now provides that the special criminal court has exclusive original jurisdiction over petitions for the issuance of the *writs of mandamus*, prohibition, *certiorari*, *habeas corpus*, injunctions, and other ancillary *writs* and processes in aid of its appellate jurisdiction.

In the same manner, Section 5 (1), Article VIII of the 1987 Constitution grants power to the Supreme Court, in the exercise of its original jurisdiction, to issue writs of *certiorari*, prohibition and *mandamus*. With respect to the Court of Appeals, Section 9 (1) of Batas Pambansa Blg. 129 (BP 129) gives the appellate court, also in the exercise of its original jurisdiction, the power to issue, among others, a writ of *certiorari*, whether or not in aid of its appellate jurisdiction. As to Regional Trial Courts, the power to issue a writ of *certiorari*, in the exercise of their original jurisdiction, is provided under Section 21 of BP 129.

The foregoing notwithstanding, while there is no express grant of such power, with respect to the CTA, Section 1, Article VIII of the 1987 Constitution provides, nonetheless, that judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law and that judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

On the strength of the above constitutional provisions, it can be fairly interpreted that the power of the CTA includes that of determining whether or not there has been grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the RTC in issuing an interlocutory order in cases falling within the exclusive appellate jurisdiction of the tax court. It, thus, follows that the CTA, by constitutional mandate, is vested with jurisdiction to issue writs of *certiorari* in these cases.²⁹ (Emphasis supplied, citations omitted)

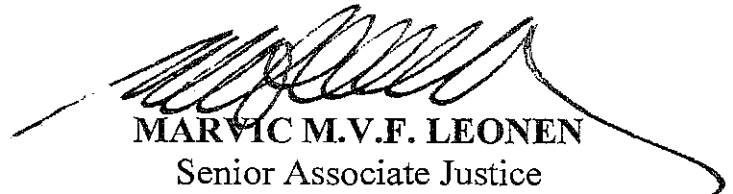
Considering that the CTA *En Banc* is not a quasi-judicial tribunal but a collegiate court, the lack of express grant of the power to issue writs of *certiorari* over the acts of the CTA division should not preclude it from exercising such authority.

Lastly, just as the grant of the exclusive appellate jurisdiction to the CTA *En Banc* did not make it a separate and superior court to its divisions, the grant of the authority to take cognizance of a petition for *certiorari* will

²⁹ *Id.* at 23-24.

not cause this perceived effect. If the CTA *En Banc* is given the authority to review the decisions or resolutions of its divisions and reverse them on appeal, there is no reason to say that they lack the authority to determine whether any of its divisions exceeded their jurisdiction in issuing interlocutory orders.

ACCORDINGLY, I vote to **DENY** the Petition.



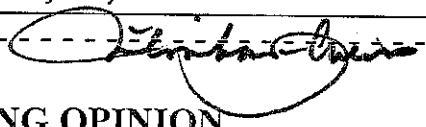
MARVIC M.V.F. LEONEN
Senior Associate Justice

EN BANC

G.R. No. 271701 — COMMISSIONER OF INTERNAL REVENUE,
Petitioner, v. NIPPON EXPRESS PHILIPPINES CORPORATION,
Respondent.

Promulgated: .

May 6, 2025

X----------X

SEPARATE CONCURRING OPINION

CAGUIOA, J.:

The present case presents a procedural question as to which judicial body has jurisdiction over a petition for *certiorari* under Rule 65 challenging an interlocutory order issued by a Division of the Court of Tax Appeals (CTA). I concur in the result reached by the *ponencia* that such petitions do not fall within the primary jurisdiction of the CTA *En Banc*. Instead, it is this Court—the Supreme Court—that is properly vested with the power to review such matters. I write separately to emphasize and expand on the rationale supporting this conclusion.

The CTA, like the Court of Appeals (CA) and the Supreme Court (Court), is a single body, the Divisions of which are mere iterations of itself and are not considered, as they cannot be considered as, inferior courts. A petition for *certiorari* under Rule 65 of the Rules of Court is a remedy available only against lower courts—not within the same judicial entity. The proper recourse for challenging a CTA Division’s interlocutory orders is to elevate the matter to the Court, which exercises supervisory authority over the CTA as part of the Philippine Judiciary.

It bears emphasis that the precise question in this case has already been directly addressed—and resolved—by the Court *in a consistent line of decisions*. In *Commissioner of Internal Revenue v. Court of Tax Appeals and CBK Power Company Limited*¹ (CBK), *Commissioner of Internal Revenue v. Court of Tax Appeals (First Division) and Pilipinas Shell Petroleum Corporation*² (PSPC), and *Commissioner of Internal Revenue v. Court of Tax Appeals-Third Division and Citysuper, Inc.*³ (Citysuper) the Court ruled that petitions for *certiorari* assailing the interlocutory orders of CTA Divisions are cognizable only by the Court, and not by the CTA *En Banc*. This limitation reflects a long-standing and principled understanding of *certiorari* as an extraordinary remedy *available only against a lower tribunal*.

¹ 765 Phil. 140 (2015) [Per J. Peralta, Third Division].

² 898 Phil. 131 (2021) [Per J. Perlas-Bernabe, Second Division].

³ 902 Phil. 446 (2021) [Per J. Leonen, Third Division].



In this case, there is no question that the July 21, 2021 and November 17, 2021 Resolutions of the CTA Division are interlocutory orders. These orders did not finally dispose of the case on the merits but simply declared the Commissioner of Internal Revenue (CIR) in default for its failure to file a hard copy of the Answer to the petition filed by respondent Nippon Express Philippines Corporation (Nippon Express) and allowed Nippon Express to present evidence *ex parte*.⁴

While the present case has been rendered moot due to developments in the main case, a clarification on which court has jurisdiction over petitions for *certiorari* under Rule 65 challenging the interlocutory orders of a CTA Division remains necessary due to its recurring nature and importance in preserving the integrity of the judicial process.

The CTA En Banc's jurisdiction is strictly appellate. It has no certiorari power over its own divisions

The amendments introduced by Republic Act No. 9282⁵ to Republic Act No. 1125⁶ elevated the rank of the CTA to a collegiate court, with the same rank as the CA, and increased the number of its members to one Presiding Justice and five Associate Justices. The CTA is now allowed to sit *En Banc* or in two Divisions with each Division consisting of three Justices.⁷

In 2008, Republic Act No. 9503⁸ was enacted which further expanded the CTA's organizational structure and jurisdiction. This law established a third Division and added three more Associate Justices, increasing the CTA's total composition to one Presiding Justice and eight Associate Justices. With this expansion, the CTA now operates either *En Banc* or in three Divisions, each consisting of three Justices.

The CTA *En Banc* exercises appellate jurisdiction over decisions rendered by the CTA Division. This authority is explicitly provided under Republic Act No. 1125, as amended by Republic Act No. 9282, which reads:

SECTION 18. *Appeal to the Court of Tax Appeals En Banc.* — No civil proceeding involving matters arising under the National Internal Revenue Code, the Tariff and Customs Code or the Local Government Code shall be maintained, except as herein provided, until and unless an appeal has been previously filed with the CTA and disposed of in accordance with the provisions of this Act.

A party adversely affected by a resolution of a Division of the CTA on a motion for reconsideration or new trial, may file a petition for review with the CTA *en banc*. (Emphasis supplied)

⁴ Ponencia, p. 7.

⁵ Expanding the Jurisdiction of the Court of Tax Appeals (2004).

⁶ Creation of Court of Tax Appeals (1954).

⁷ *Santos v. People*, 585 Phil. 337, 347 (2008) [Per J. Chico-Nazario, Third Division].

⁸ Enlarging the Organizational Structure of the Court of Tax Appeals (2008).



Corollarily, Section 2, Rule 4 of A.M. No. 05-11-07-CTA,⁹ otherwise known as the Revised Rules of the Court of Tax Appeals (RRCTA), summarizes the jurisdiction of the CTA *En Banc* as follows:

Section 2. *Cases Within the Jurisdiction of the Court En Banc.* — The Court *en banc* shall exercise **exclusive appellate jurisdiction** to review by appeal the following:

(a) **Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:**

- (1) Cases arising from administrative agencies — Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture;
 - (2) Local tax cases decided by the Regional Trial Courts in the exercise of their original jurisdiction; and
 - (3) Tax collection cases decided by the Regional Trial Courts in the exercise of their original jurisdiction involving final and executory assessments for taxes, fees, charges and penalties, where the principal amount of taxes and penalties claimed is less than one million pesos;
- (b) Decisions, resolutions or orders of the Regional Trial Courts in local tax cases decided or resolved by them in the exercise of their appellate jurisdiction;
- (c) Decisions, resolutions or orders of the Regional Trial Courts in tax collection cases decided or resolved by them in the exercise of their appellate jurisdiction;
- (d) **Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive original jurisdiction over tax collection cases;**
- (e) Decisions of the Central Board of Assessment Appeals (CBAA) in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals;
- (f) **Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive original jurisdiction over cases involving criminal offenses arising from**

⁹ November 22, 2005.



violations of the National Internal Revenue Code or the Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue or Bureau of Customs;

- (g) **Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive appellate jurisdiction over criminal offenses** mentioned in the preceding subparagraph; and
- (h) Decisions, resolutions or orders of the Regional Trial Courts in the exercise of their appellate jurisdiction over criminal offenses mentioned in subparagraph (f). (Emphasis supplied)

Based on the foregoing, the CTA *En Banc* exercises **exclusive appellate jurisdiction** over **decisions** rendered by the CTA Division, whether in the exercise of their original and appellate jurisdiction in both civil and criminal actions.

In this connection, the Court, speaking through then Associate Justice (later Chief Justice) Diosdado M. Peralta, already held in the 2015 case of *CBK* that while the CTA *En Banc* has jurisdiction over a **final judgment or order**, it does not have jurisdiction over an interlocutory order issued by the CTA Division, thus:

We first address the procedural issue raised by private respondent in its Comment. Private respondent claims that petitioner chose an erroneous remedy when it filed a petition for *certiorari* with us since the proper remedy on any adverse resolution of any division of the CTA is an appeal by way of a petition for review with the CTA *en banc*; that it is provided under Section 2(a)(1) of Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA) that the Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the decision or resolutions on motions for reconsideration or new trial of the Court in division in the exercise of its exclusive appellate jurisdiction over cases arising from administrative agencies such as the Bureau of Internal Revenue.

We are not persuaded.

In *Santos v. People, et al.*, where petitioner argues that a resolution of a CTA Division denying a motion to quash, an interlocutory order, is a proper subject of an appeal to the CTA *en banc* under Section 18 of Republic Act No. 1125, as amended, we ruled in the negative and disposed the argument as follows:

....

Given the foregoing, the petition for review to be filed with the CTA *en banc* as the mode for appealing a decision, resolution, or order of the CTA Division, under Section 18 of Republic Act No. 1125, as amended, is not a totally new remedy, unique to the CTA, with a special application or use therein. To the contrary, the CTA merely adopts the procedure for petitions for review and appeals long



established and practiced in other Philippine courts. Accordingly, doctrines, principles, rules, and precedents laid down in jurisprudence by this Court as regards petitions for review and appeals in courts of general jurisdiction should likewise bind the CTA, and it cannot depart therefrom.

....

According to Section 1, Rule 41 of the Revised Rules of Court, governing appeals from the Regional Trial Courts (RTCs) to the Court of Appeals, an appeal may be taken only from a judgment or final order that completely disposes of the case or of a matter therein when declared by the Rules to be appealable. Said provision, thus, explicitly states that no appeal may be taken from an interlocutory order.

It is, therefore, clear that the CTA *en banc* has jurisdiction over final order or judgment but not over interlocutory orders issued by the CTA in division.¹⁰ (Emphasis supplied)

It is essential to highlight that the circumstances of the present case are *identical* to those in *CBK*, both in terms of the nature of the assailed orders and the appropriate legal remedy available. In *CBK*, the Court unequivocally held that an order declaring a party in default and allowing the opposing party to present evidence *ex parte* is an interlocutory order, as it does not resolve the case on the merits.¹¹ Likewise, in the present case, the Resolutions of the CTA Division are interlocutory, as they only declared the CIR in default and allowed Nippon Express to present evidence *ex parte*. Thus, following *CBK*, the proper remedy of a party aggrieved by an interlocutory order issued with grave abuse of discretion by a CTA Division is to file a petition for *certiorari* before the Court, not the CTA *En Banc*. Such a remedy is consistent with Section 1, Rule 41 of the Rules of Court,¹² which states that a party is only allowed to appeal a judgment or a final order which completely disposes of the case. Conversely, no appeal may be taken from orders or resolutions which are interlocutory in nature, and the remedy of the aggrieved party in such instance is to file an appropriate special civil action under Rule 65.

Since the present case involves the same procedural posture as *CBK*—where the CTA Division’s interlocutory orders are being questioned—the Court’s ruling in *CBK* must be applied consistently. **The principle in *CBK***

¹⁰ *Commissioner of International Revenue v. Court of Tax Appeals and CBK Power Company Limited*, *supra* note 1, at 147-148, 151.

¹¹ *Id.* at 151-152.

¹² RULES OF COURT, Rule 41, sec. 1 reads:

Section 1. *Subject of appeal.* — An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

....

(c) An interlocutory order[.]

....

In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.

has been adopted in a number of cases, including *Citysuper, PSPC*, and *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division and QL Development, Inc.*,¹³ all of which clarified that that the CTA *En Banc* only has jurisdiction over a final judgment or order, but not over an interlocutory order of the CTA Division. Thus, the Court has already spoken definitively on this precise issue.

Grecia-Cuerdo does not authorize the CTA En Banc to exercise certiorari over interlocutory orders of CTA divisions

In the 2014 case of *City of Manila v. Grecia-Cuerdo*¹⁴ (*Grecia-Cuerdo*), the Court *En Banc*, also speaking through Associate Justice (later Chief Justice) Peralta, declared that the CTA has appellate jurisdiction over a special civil action for *certiorari* assailing an **interlocutory order issued by the RTC** in a local tax case. The Court explained:

... Section 5 (1), Article VIII of the 1987 Constitution grants power to the Supreme Court, in the exercise of its original jurisdiction, to issue writs of *certiorari*, prohibition and *mandamus*. With respect to the Court of Appeals, Section 9 (1) of Batas Pambansa Blg. 129 (BP 129) gives the appellate court, also in the exercise of its original jurisdiction, the power to issue, among others, a writ of *certiorari*, whether or not in aid of its appellate jurisdiction. As to Regional Trial Courts, the power to issue a writ of *certiorari*, in the exercise of their original jurisdiction, is provided under Section 21 of BP 129.

The foregoing notwithstanding, while there is no express grant of such power, with respect to the CTA, Section 1, Article VIII of the 1987 Constitution provides, nonetheless, that judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law and that judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

On the strength of the above constitutional provisions, it can be fairly interpreted that the power of the CTA includes that of determining whether or not there has been grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the RTC in issuing an interlocutory order in cases falling within the exclusive appellate jurisdiction of the tax court. It, thus, follows that the CTA, by constitutional mandate, is vested with jurisdiction to issue writs of *certiorari* in these cases.

Indeed, in order for any appellate court, to effectively exercise its appellate jurisdiction, it must have the authority to issue, among others, a writ of *certiorari*. In transferring exclusive jurisdiction over appealed tax cases to the CTA, it can reasonably be assumed that the law intended to

¹³ 921 Phil. 1090 (2022) [Per J. Caguioa, First Division].

¹⁴ 726 Phil. 9 (2014) [Per J. Peralta, *En Banc*].



transfer also such power as is deemed necessary, if not indispensable, in aid of such appellate jurisdiction. There is no perceivable reason why the transfer should only be considered as partial, not total.

Consistent with the above pronouncement, this Court has held as early as the case of *J.M. Tuason & Co., Inc. v. Jaramillo, et al.* that “if a case may be appealed to a particular court or judicial tribunal or body, then said court or judicial tribunal or body has jurisdiction to issue the extraordinary writ of *certiorari*, in aid of its appellate jurisdiction.” This principle was affirmed in *De Jesus v. Court of Appeals*, where the Court stated that “**a court may issue a writ of *certiorari* in aid of its appellate jurisdiction if said court has jurisdiction to review, by appeal or writ of error, the final orders or decisions of the lower court.**” The rulings in *J.M. Tuason* and *De Jesus* were reiterated in the more recent cases of *Galang, Jr. v. Geronimo* and *Bulilis v. Nuez*.

Furthermore, Section 6, Rule 135 of the present Rules of Court provides that when by law, jurisdiction is conferred on a court or judicial officer, all auxiliary writs, processes and other means necessary to carry it into effect may be employed by such court or officer.¹⁵ (Emphasis supplied)

To better understand the limits of this authority, it is necessary to return to the general principles that govern the writ of *certiorari*. A writ of *certiorari* may be issued only for the correction of errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction.¹⁶ Section 1, Rule 65 of the Rules of Court reads:

SECTION 1. *Petition for certiorari*.— When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his [or her] jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the paragraph of Section 3, Rule 46. (Emphasis supplied)

Indeed, a writ of *certiorari* cannot be used for any other purpose, as its function is limited to keeping the **inferior court** within the bounds of its jurisdiction.¹⁷ In our judicial system, the writ is issued to prevent lower courts and tribunals from committing grave abuse of discretion in excess of their jurisdiction.¹⁸ Over a *certiorari*, the higher court uses its original jurisdiction

¹⁵ *Id.* at 23–25.

¹⁶ *Madrigal Transport Inc. v. Lapanday Holdings Corp.*, 479 Phil 768, 778 (2004) [Per J. Panganiban, Third Division].

¹⁷ *Bugaoisan v. OWI Group Manila*, 825 Phil. 764, 774–775 (2018) [Per J. Reyes, Jr., Second Division].

¹⁸ *Cruz v. People*, 812 Phil. 166, 171 (2017) [Per J. Leonen, Second Division].

in accordance with its power of control and supervision over the proceedings of lower courts.¹⁹

The context and reasoning of *Grecia-Cuerdo* do not justify—and in fact preclude—its application to situations where the writ is sought against an order issued by a division of the very same tribunal. The context of that case is markedly different from the present case.

First, the Court's ruling in *Grecia-Cuerdo* was based on the principle that an appellate tribunal must have the authority to issue writs of *certiorari* against the lower courts whose decisions are subject to its review. *Grecia-Cuerdo* does not support the proposition that the CTA *En Banc* may issue writs of *certiorari* against its own Divisions.

Grecia-Cuerdo involved a hierarchical relationship between two distinct courts—the RTC as the court of origin, and the CTA as the reviewing appellate court. That relationship is what justified the issuance of a writ of *certiorari* in aid of the CTA's appellate jurisdiction. That rationale applies only when the interlocutory order comes from a court that is subordinate to the appellate tribunal. **That is not the case here. The CTA *En Banc* and the CTA Divisions are part of a single collegiate court. A division's ruling is not that of a lower court but of the same tribunal operating through a different panel.** The CTA *En Banc* cannot therefore act as a reviewing court over its own internal units *via certiorari* without violating the basic premise of Rule 65—that it is a remedy to be addressed to a court of higher rank. This limitation was further emphasized in *Mactel Corp. v. City Government of Makati*,²⁰ where the Court categorically stated that the ruling in *Grecia-Cuerdo* applies only if the interlocutory order was issued by the RTC in a local tax case in order for the CTA to take cognizance of a petition for *certiorari*.

Second, as stated in *Grecia-Cuerdo*, “a court may issue a writ of *certiorari* in aid of its appellate jurisdiction if it has jurisdiction to review, by appeal or writ of error, the final orders or decisions of **the lower court.**”²¹ This statement underscores that the authority to issue a writ of *certiorari* is tied to a court's ability to review the decisions of a lower court or tribunal, not those of an entity within the same judicial structure. The writ of *certiorari* may be issued only against a tribunal whose final acts are appealable to the issuing court. This condition is not satisfied as the CTA Division and CTA *En Banc* are not separate courts, but two configurations of the same body. The CTA Division is the CTA itself, acting through fewer members.

Third, while *Grecia-Cuerdo* recognized that a court with appellate jurisdiction may issue writs of *certiorari* “in aid of its appellate jurisdiction,” this does not mean the writ ceases to be an exercise of original jurisdiction, nor does it authorize a tribunal to issue writs against its own components. A Rule 65 petition remains an original and independent remedy. To restate, in *Grecia-*

¹⁹ *Madrigal Transport Inc. v. Lapanday Holdings Corp.*, supra note 16, at 780.

²⁰ 908 Phil. 287, 297–298 (2021) [Per J. Carandang, First Division].

²¹ *City of Manila v. Grecia-Cuerdo*, supra note 14, at 25. Emphasis supplied.

Cuerdo, the CTA exercised *certiorari* over an RTC—a lower court over which it has appellate jurisdiction.

To interpret *Grecia-Cuerdo* as authorizing the CTA *En Banc* to exercise **original jurisdiction** over interlocutory orders of its own Divisions would be to misconstrue the doctrine. Under the present framework, the CTA *En Banc* is granted only **exclusive appellate jurisdiction** over **final** decisions, orders, or resolutions of the CTA Division. It is not vested with original jurisdiction to entertain special civil actions for *certiorari* arising from interlocutory matters within the same tribunal.

Rule 65, *by its very nature*, is a remedy anchored in original jurisdiction. A petition for *certiorari* is not a continuation of the proceedings below, but an independent and original action questioning a tribunal's grave abuse of discretion. The case of *Public Estates Authority v. Sy, Jr.*²² is instructive:

In contrast with an appeal which is a continuation of the proceedings, a petition for *certiorari* is “an original and independent action that [is] not part of the trial that had resulted in the rendition of judgment or order complained of.” “Over a [*certiorari*], the **higher court uses its original jurisdiction** in accordance with its power of control and supervision over the proceedings of **lower courts.**”²³ (Emphasis supplied)

Hence, *Grecia-Cuerdo* does not authorize the CTA *En Banc* to exercise *certiorari* over the CTA Divisions.

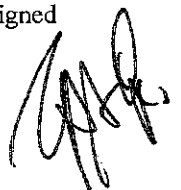
In fact, in the later cases after *Grecia-Cuerdo*,²⁴ the Court expressly declined to extend *Grecia-Cuerdo* to such intra-tribunal arrangements. The Court in *CBK*—decided a year after *Grecia-Cuerdo*—squarely rejected this extension. It held that the CTA *En Banc* has no jurisdiction over petitions for *certiorari* questioning interlocutory orders of the CTA Divisions. That both decisions were authored by the same Member of the Court underscores that *Grecia-Cuerdo* was never intended to support the proposition that the CTA *En Banc* may act on petitions for *certiorari* directed at the CTA Divisions.

Thus, *Grecia-Cuerdo* is properly read as affirming the authority of the CTA to issue writs of *certiorari* only in relation to lower courts, such as the RTC, in cases where the CTA exercises appellate jurisdiction. It does not authorize—and cannot be invoked to justify—the exercise of original *certiorari* jurisdiction by the CTA *En Banc* over the CTA Divisions. In line with this clear doctrinal framework, the proper forum for petitions for *certiorari* assailing interlocutory orders of the CTA Divisions remains to be this Court—consistent with Rule 65 and with longstanding jurisprudence.

²² 935 Phil. 227 (2023) [Per J. Leonen, Second Division].

²³ *Id.* at 255.

²⁴ *Commissioner of Internal Revenue v. Court of Tax Appeals and CBK Power Company Limited*, *supra* note 1; *Commissioner of Internal Revenue v. Court of Tax Appeals (First Division) and Pilipinas Shell Petroleum Corporation*, *supra* note 2; *Commissioner of Internal Revenue v. Court of Tax Appeals-Third Division and Citysuper, Inc.*, *supra* note 3; *MT Alpine Magnolia v. Commissioner of Bureau of Customs and District Collector of Bataan*, G.R. No. 244723, April 27, 2022 [Per Third Division] (Unsigned Resolution).



Legislative intent does not support granting the CTA En Banc certiorari jurisdiction over interlocutory orders issued by the CTA Divisions

During the deliberations for this case, a question was raised as to whether the CTA Divisions are to be regarded as lower courts in relation to the CTA *En Banc*. To this, I submit that they are not.

While the CTA *En Banc* exercises appellate jurisdiction over the CTA Divisions, this does not automatically make it a “higher” or “superior” court in the traditional judicial hierarchy. *The legislative intent behind Republic Act No. 9282 does not support the characterization of the CTA En Banc as a superior tribunal over the CTA Divisions.* Senate President Franklin M. Drilon, in his sponsorship speech before Republic Act No. 9282 became a law, clarified the purpose of the amendment:

This bill is entitled “An Act Expanding The Jurisdiction of the Court of Tax Appeals (CTA), **Elevating Its Rank to the Level of a Collegiate Court** With Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as Amended, Otherwise Known as the Law Creating the Court of Tax Appeals and For Other Purposes.”

.....

The measure also expands the organization and most importantly its **level is raised to that of the Court of Appeals.**

.....

Mr. President, another important feature of this measure is that appeals from decisions of the Court of Tax Appeals are no longer appealable to the Court of Appeals. Under the modified appeal procedure, the decision of a division of the Court of Tax Appeals may be appealed to the Court of Tax Appeals *en banc*. The decision of the Court of Tax Appeals *en banc* may in turn be directly appealed to the Supreme Court only on a question of law. This is expected to facilitate court proceedings in tax cases since the Court of Tax Appeals has admittedly the necessary expertise in tax matters. Moreover, there will be less divisive rulings on tax matters since appeal shall be made only to the Court of Tax Appeals *en banc* instead of the Court of Appeals with its many divisions.²⁵ (Emphasis supplied)

A significant procedural reform introduced by Republic Act No. 9282 was the modification of the appellate process for tax cases—shifting appellate review from the CA to the CTA *En Banc*. Prior to the enactment of Republic Act No. 9282, appeals from the CTA were directed to the CA.²⁶ This meant

²⁵ III Record, Senate, 12th Congress, Third Regular Session (December 1, 2003), pp. 50, 52–53, Sponsorship speech of Sen. Franklin M. Drilon.

²⁶ See *Dizon v. Court of Tax Appeals*, 576 Phil. 110 (2008) [Per J. Nachura, Third Division].

that tax cases were subject to review by a general appellate body, despite the specialized nature of tax cases.

Under Republic Act No. 9282, decisions rendered by a CTA Division are now subject to appeal before the CTA *En Banc*, replacing the previous practice of elevating such cases to the CA. Rulings of the CTA *En Banc* may then be appealed directly to the Court, but only on pure questions of law.

The CTA *En Banc* was created as the exclusive appellate body for decisions rendered by the CTA Divisions to ensure that tax cases remain within a specialized tribunal before they reach the Court. This change was meant to prevent conflicting tax rulings among multiple Divisions of the CTA. The legislative intent was to establish a clear appellate process within the CTA, but not to turn the CTA *En Banc* into a supervisory body with certiorari jurisdiction over its own Divisions. To hold otherwise would contradict the specialized appeal structure envisioned by Republic Act No. 9282.

Consistent with this rationale, the legislative intent affirms that the CTA *En Banc* functions as an appellate body within the CTA, not as a superior or distinct court. The CTA *En Banc* and the CTA Divisions together function as components of the same tribunal—a collegiate court created with a unique structure and jurisdiction. **Republic Act No. 9282 did not create a hierarchy between the CTA *En Banc* and the CTA Divisions. It simply granted the CTA *En Banc* an exclusive appellate jurisdiction over final decisions or resolutions issued by the CTA Divisions.** In essence, Republic Act No. 9282 established an appellate structure that allows the full court to collectively review rulings of its Divisions.

The foregoing understanding is consistent with the design of the CTA as a collegiate court. The CTA, like the Court, operates as a singular judicial body regardless of whether it is sitting *En Banc* or in Divisions. To emphasize, CTA Divisions are not lower courts in relation to the CTA *En Banc*. This principle has been recognized in *Land Bank of the Philippines v. Suntay*²⁷ (*Suntay*), where the Court rejected the argument that the Court's Divisions operate as separate and distinct courts from the Court *En Banc*, emphasizing that the actions taken and the decisions rendered by any of the Divisions are those of the Court itself. This means that while the Court works in Divisions, the Court remains one unit, and no hierarchy exists between the Court *En Banc* and the Divisions of the Court.

Although *Suntay* addresses the Court's structure, the same logic should apply to the CTA. The CTA, like the Court, is a collegiate body that functions either *En Banc* or in Divisions.

The Court further clarified the limits of the CTA *En Banc*'s authority in *Commissioner of Internal Revenue v. Kepco Ilijan Corp.*²⁸ (*Kepco*) where it refused to recognize the CTA *En Banc*'s power to annul a ruling of one of the

²⁷ 678 Phil. 879, 911–912 (2011) [Per J. Bersamin, First Division].

²⁸ 787 Phil. 698 (2016) [Per J. Peralta, *En Banc*].



CTA Divisions. The Court reasoned that neither Republic Act No. 1125, as amended by Republic Act No. 9282, nor even the RRCTA, contemplates such a scenario. Simply put, no law or rule grants the CTA *En Banc* the power to invalidate the final and executory rulings of the CTA Divisions, thus:

But the law and the rules are silent when it comes to a situation similar to the case at bar, in which a court, in this case **the Court of Tax Appeals, is called upon to annul its own judgment. More specifically, in the case at bar, the CTA sitting *en banc* is being asked to annul a decision of one of its divisions.** However, the laws creating the CTA and expanding its jurisdiction (RA Nos. 1125 and 9282) and the court's own rules of procedure (the Revised Rules of the CTA) do not provide for such a scenario.

It is the same situation among other collegial courts. To illustrate, the Supreme Court or the Court of Appeals may sit and adjudicate cases in divisions consisting of only a number of members, and such adjudication is already regarded as the decision of the Court itself. It is provided for in the Constitution, Article VIII, Section 4(1) and BP Blg. 129, Section 4, respectively. The divisions are not considered separate and distinct courts but are divisions of one and the same court; there is no hierarchy of courts within the Supreme Court and the Court of Appeals, for they each remain as one court notwithstanding that they also work in divisions. The Supreme Court sitting *en banc* is not an appellate court vis-a-vis its divisions, and it exercises no appellate jurisdiction over the latter. As for the Court of Appeals *en banc*, it sits as such only for the purpose of exercising administrative, ceremonial, or other non-adjudicatory functions.

Thus, it appears contrary to these features that a collegial court, sitting *en banc*, may be called upon to annul a decision of one of its divisions which had become final and executory, for it is tantamount to allowing a court to annul its own judgment and acknowledging that a hierarchy exists within such court. In the process, it also betrays the principle that judgments must, at some point, attain finality. A court that can revisit its own final judgments leaves the door open to possible endless reversals or modifications which is anathema to a stable legal system.²⁹ (Emphasis supplied)

The Court's ruling in *Kepeco* affirms that the CTA is a collegiate court where no hierarchy exists between the *En Banc* and its divisions, and to rule otherwise would distort the tribunal's structure and contradict established jurisprudence.

Kepeco further recognized that a petition for *certiorari* under Rule 65 against a CTA Division's ruling must be filed directly with the Court, not with the CTA *En Banc*, as *certiorari* is an independent action that requires review by a higher tribunal, not the same court whose ruling is being questioned, thus:

Instead, what remained as a remedy for the petitioner was to file a petition for *certiorari* under Rule 65, which could have been filed as an original action before this Court and not before the CTA *En Banc*. *Certiorari* is available when there is no appeal or any other plain, speedy

²⁹ *Id.* at 705-706.

and adequate remedy in the ordinary course of law, such as in the case at bar. Since the petition below invoked the gross and palpable negligence of petitioner's counsel which is allegedly tantamount to its being deprived of due process and its day in court as party-litigant and, as it also invokes lack of jurisdiction of the CTA First Division to entertain the petition filed by private respondent since the same allegedly fails to comply with the reglementary periods for judicial remedies involving administrative claims for refund of excess unutilized input VAT under the National Internal Revenue Code (NIRC), which periods it claims to be jurisdictional, then the proper remedy that petitioner should have availed of was indeed a petition for *certiorari* under Rule 65, **an original or independent action premised on the public respondent having acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack of excess of jurisdiction. However, since a *certiorari* petition is not a continuation of the appellate process borne out of the original case but is a separate action focused on actions that are in excess or wanting of jurisdiction, then it cannot be filed in the same tribunal whose actions are being assailed but is instead cognizable by a higher tribunal which, in the case of the CTA, is this Court.** In the case involving petitioner, the petition could have been filed directly with this Court, even without any need to file a motion for reconsideration with the CTA division or *En Banc*, as the case appears to fall under one of the recognized exceptions to the rule requiring such a motion as a prerequisite to filing such petition.³⁰ (Emphasis and underscoring supplied)

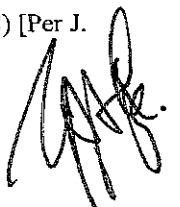
While the CTA *En Banc* may reverse or modify the decisions of the CTA Divisions, this authority does not contradict the principle that they are co-equal components of the same court. The CTA *En Banc*'s appellate jurisdiction over the judgment of the CTA Division stems not from a position of superiority but from its role as a specialized tribunal with expertise in tax and customs cases. The CTA is dedicated exclusively to the study and consideration of revenue-related problems and has necessarily developed an expertise on the subject.³¹

Given the complexity of tax laws and the technical nature of tax assessments, the CTA *En Banc* review mechanism ensures uniformity and consistency in tax adjudication by providing an additional layer of scrutiny within the same tribunal. This is in line with the legislative intent behind Republic Act No. 9282, which sought to streamline tax appeals and reduce the backlog in the CA by directing tax-related appeals to the CTA *En Banc*. The CTA *En Banc*'s power to review a division's judgment does not transform it into a higher court, as the CTA *En Banc* is merely exercising its appellate function as prescribed by the law.

In support of the proposition that the CTA *En Banc* and the CTA Divisions were intended to function as separate and distinct courts, attention has been drawn to the following excerpts from the House of Representatives Committee Hearing relative to the passage of Republic Act No. 9282. These excerpts have been interpreted to justify the CTA *En Banc*'s exercise of

³⁰ *Id.* at 708–709.

³¹ *Chevron Philippines, Inc. v. Commissioner of the Bureau of Customs*, 583 Phil. 706, 737 (2008) [Per J. Corona, First Division].



certiorari jurisdiction over interlocutory orders of the CTA Divisions. One such exchange from then CTA Presiding Judge Ernesto D. Acosta reads:

... Now, this, as observed by Congressman Danilo Suarez, this bill was vetoed because the last Congress failed to get the concurrence of the Supreme Court on the matters of direct appeal from the Court of Tax Appeals to the Supreme Court because that, they say, will increase the jurisdiction of the Supreme Court without its consent. Now, this pertains to Section 18 and Section 19 of our Charter which is also a subject of the various proposals of the Honorable Congressmen and Congresswoman.

And I would like to inform the Body that this particular issue on the appeal to the Supreme Court is now being heard by the Supreme Court through its Committee on Legal Education headed by Justice Jose Vitug. The matter is being heard by them after the Senate version of this bill was referred by the Senate President to the Supreme Court.

So right now, it is being heard and, in fact, on Friday we are also requested by the Supreme Court to give our proposal on that appeal procedure from the Court Division up to the Supreme Court. And as Congressman Danilo Suarez was correctly informed that the Honorable Justice Carpio have made a proposal during the committee hearing **that the appeal would be coursed through the Court of Tax Appeals [*en banc*] on limited matters like abuse of discretion, question of law[,] [or cases] where [there is a] serious error in the findings of fact.**³² (Emphasis supplied)

However, the terminology used in the above exchange is ambiguous. It refers to “appeal” being taken to the CTA *En Banc* on the ground of “abuse of discretion.” However, such a ground is not ordinarily associated with appeals but with petitions for *certiorari*. The use of the term “appeal” in that context appears to be imprecise. It conflates two conceptually and procedurally distinct remedies—appeals from final judgments and original *certiorari* proceedings under Rule 65.

A similar point arises from the remarks of Representative Exequiel B. Javier, a co-author of the bill:

... Under my bill, of course, once the Court of Tax Appeals is constituted as a collegiate court with 9 divisions, the appeal will go to the Court of Appeals on questions of fact, questions of law and so forth. Of course, only questions of law will be elevated to the Supreme Court. But I understand that, according to Judge Acosta, who is the presiding judge of the Court of Tax Appeals, we may have to eliminate the appeal to the Court of Appeals because it's quite illogical that a collegiate court with an expertise on tax matters... tax matters so they appealed to the Court of Appeals and no offense to Justice Agcaoili. The Court of Appeals is a court of general appellate jurisdiction under all cases. So it not also help [*sic*] de-clog the dockets of the Court of Appeals. **So the appeal would be from the division of the Court of Tax Appeals to the Court of [Tax] Appeals [*en banc*] and whatever decision [*en banc*] reaches then it goes to the Supreme Court for appeal on [*certiorari*] only on three grounds. Abuse of**

³² House of Representatives Committee Hearing, Committee on Justice, March 4, 2003, pp. 10–11.

discretion, serious errors of facts and question of law.³³ (Emphasis supplied)

The foregoing statement cannot be read as establishing doctrinal authority for the view that the CTA *En Banc* and the CTA Divisions were intended to be institutionally separate courts. The clear thrust of the exchange concerns the re-routing of appeals. It reflects the intent of Congress to reorganize the CTA as a collegiate court, composed of multiple Divisions, with the CTA *En Banc* acting as an internal reviewing body in place of the CA. The statement that “appeals would be coursed through the Court of Tax Appeals *en banc*” pertains to appellate review of final decisions, not to the creation of independent courts within the same institution.

There is no language in the Committee Hearing indicating that Congress viewed the CTA Division and the CTA *En Banc* as institutionally independent courts. On the contrary, the deliberations point to a **single specialized court**, structured internally into Divisions and *En Banc* for functional efficiency. To infer otherwise from generalized remarks is to read more into the record than its text or context permits.

In sum, the legislative deliberations do not support the proposition that the CTA *En Banc* was meant to exercise *certiorari* jurisdiction over interlocutory orders issued by the CTA Division. What they confirm is the realignment of appellate functions and the desire for review of final judgments within the CTA before proceeding to the Court. There is no indication that Congress intended to create two distinct courts within the CTA. What the deliberations instead reveal is a structural realignment such that appeals from CTA Divisions, which would previously have been brought to the CA, were to be resolved by the CTA *En Banc* to promote judicial specialization and efficiency in tax adjudication.

*Policy concerns and implications
of extending certiorari jurisdiction
to the CTA En Banc over
interlocutory orders issued by the
CTA Divisions*

The rationale advanced in favor of allowing the CTA *En Banc* to issue writs of *certiorari* against interlocutory orders of the CTA Divisions is to prevent “split jurisdiction,” where one court resolves the appeal in the main case (the CTA *En Banc*) while another rules on procedural incidents (the Supreme Court). It was argued that this arrangement would result in inefficiency, delay, and increased litigation costs.

However, *these concerns are more apparent than real*. To my mind, there has been no showing of any failure in the current system that would justify a change. The present framework ensures both judicial hierarchy and

³³ *Id.* at 4–6.



procedural order. When interlocutory orders arise, a Rule 65 petition may be filed with the Court, which carefully applies the standard of grave abuse of discretion. In the meantime, proceedings before the CTA Division continue. Given that a Rule 65 petition does not automatically stay the trial, this setup discourages dilatory tactics while preserving the Court's ability to intervene where necessary. In this way, appellate review before the CTA *En Banc* is reserved for completed records, and interlocutory order challenges remain confined to questions as to whether there is grave abuse of discretion.

In any case, the fear of split jurisdiction is dispelled by the well-settled doctrine that an “[a]ppel renders superfluous a pending petition for *certiorari*, and mandates its dismissal.”³⁴ In *Enriquez v. Rivera*,³⁵ the Court held that by the plain terms of Section 1, Rule 65, *certiorari* cannot be granted where there is an appeal or any plain, speedy, and adequate remedy in the ordinary course of law. It further explained that to persevere in the pursuit of the writ would be to engage in an enterprise which is unnecessary, tautological, and frowned upon by the law. This principle was echoed more recently in *Guialani v. Court of Appeals*,³⁶ where the Court affirmed that once an appeal is filed, the earlier Rule 65 petition “has ceased to be legally viable.”³⁷

Furthermore, while I fully recognize the importance of procedural coherence and administrative efficiency in the judicial process, these policy considerations, however compelling they may appear, cannot override the jurisdictional boundaries established by law and settled jurisprudence. **Judicial efficiency cannot justify jurisdictional overreach.** Indeed, the Court already recognized that petitions for *certiorari* against interlocutory orders of the CTA Division should be brought directly before the Court. Allowing the CTA *En Banc* to assume original *certiorari* jurisdiction over interlocutory orders issued by the CTA Division would amount to a judicial reallocation of power that properly belongs to the legislature.

In fact, as I see it, any change in the current structure invites a number of complications.

First, if an interlocutory order is made subject to *certiorari* before the CTA *En Banc*, it will overburden the CTA *En Banc*. The CTA *En Banc* was not designed to function as a court of first instance for procedural disputes arising during trial. Its role is to serve as the appellate body for **final judgments**³⁸ issued by the CTA Divisions. Rather than fostering efficiency, the proposed change risks congestion of cases.

Second, allowing the CTA *En Banc* to resolve interlocutory orders during trial creates a risk of prejudgment. In the ordinary course, the CTA *En*

³⁴ *Enriquez v. Rivera*, 179 Phil. 482, 487 (1979) [Per J. Abad-Santos, Second Division].

³⁵ *Id.*

³⁶ 900 Phil. 174 (2021) [Per J. Carandang, First Division].

³⁷ *Id.* at 192.

³⁸ See RULES OF COURT, Rule 41 and *Commissioner of Internal Revenue v. Court of Tax Appeals and CBK Power Company Limited*, *supra* note 1, at 151.

Banc reviews the final decision of a CTA Division only after trial has concluded. However, if the CTA *En Banc* is permitted to take cognizance of petitions for *certiorari* while the main case is still pending before the CTA Division, it will become involved in the proceedings before the factual and legal issues have been resolved. Then, once the CTA Division issues its final judgment, the same case may be elevated to the CTA *En Banc* again on appeal. The result is that the CTA *En Banc* may effectively be asked to review legal or procedural issues it has already addressed in a different capacity. This creates at least the appearance that the CTA *En Banc* is no longer a neutral arbiter, but a tribunal with a prior stake in the outcome. That appearance alone may compromise confidence in the fairness of appellate review.

The concern becomes even more serious in light of the CTA's institutional composition. The CTA is a collegial body of nine Justices, and any given Division is composed of three of those same Members. If a petition for *certiorari* challenges an interlocutory order issued by a CTA Division, and the same three justices later sit in the CTA *En Banc* to resolve the petition, the CTA *En Banc* is placed in the uncomfortable position of assessing its own conduct. In effect, the CTA *En Banc* may be asked to determine whether a ruling issued by one of its own Divisions—comprised of its own Members—was arbitrary or issued with grave abuse of discretion.

Thus, there is no legal basis and no demonstrated necessity to reinterpret the appellate jurisdiction of the CTA *En Banc* as carrying with it the power to exercise original jurisdiction over Rule 65 petition involving interlocutory orders issued by its own Division.

*On the proper process for seeking
reconsideration of interlocutory
orders issued by the CTA Division*

Given the foregoing, it is also essential to highlight the proper process for challenging interlocutory orders issued by a CTA Division, particularly on whether a motion for reconsideration should first be filed, and whether such a motion should be brought before the CTA Division or the CTA *En Banc*.

Under Section 1, Rule 65 of the Rules of Court, petitioners must be able to show, among others, that they do not have any other "plain, speedy and adequate remedy in the ordinary course of law" before a petition for *certiorari* can prosper.

Thus, a petition for *certiorari* is available only when there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law. Relevantly, a motion for reconsideration is recognized as an adequate remedy against a decision, resolution, or order of a lower court, as it provides the court the opportunity to correct any error it might have committed. The availability of the remedy of reconsideration generally precludes immediate recourse to a



certiorari petition.³⁹ Jurisprudence is replete with decisions which reiterate that before filing a petition for *certiorari* in a higher court, the attention of the lower court should first be called to its supposed error and its correction should be sought. Failing this, the petition for *certiorari* should be denied.⁴⁰

In line with this, it becomes necessary to determine the proper forum before which a motion for reconsideration must be filed.

Except for the Commission on Elections (COMELEC), which is uniquely governed by an express constitutional provision directing COMELEC *En Banc* to resolve motions for reconsideration rendered by COMELEC Divisions,⁴¹ the fundamental rule is that a motion for reconsideration must be filed before the same court or tribunal that issued the order or ruling.⁴² The reason for this is to afford the issuing court the opportunity to correct any actual or perceived error attributed to it through a re-examination of the legal and factual aspects of the case.⁴³ This principle is firmly rooted in our procedural system and applies squarely to the CTA Divisions.

In the context of the CTA, this means that a motion for reconsideration directed at an interlocutory order issued by a CTA Division must be addressed to the CTA Division that rendered the ruling, not the CTA *En Banc*. It is the CTA Division that rendered the questioned order, and therefore it is the only proper body that can meaningfully revisit and, if warranted, modify its ruling. To allow the elevation of the matter to the CTA *En Banc* on motion for reconsideration would be to bypass the requirement of first exhausting remedies before the issuing court, in this case, the CTA Division that rendered the ruling involving an interlocutory order.

Further, a plain reading of Section 18 of Republic Act No. 1125, as amended by Republic Act No. 9282 reveals that a motion for reconsideration shall still be resolved by the CTA Division. The CTA *En Banc* will only take cognizance of the matter if the same is appealable, and the aggrieved party did so by petition for review. The entire provision is restated thus:

SECTION 18. *Appeal to the Court of Tax Appeals En Banc.* — No civil proceeding involving matters arising under the National Internal Revenue Code, the Tariff and Customs Code or the Local Government Code shall be maintained, except as herein provided, until and unless an appeal

³⁹ *680 Home Appliances, Inc. v. Court of Appeals*, 744 Phil. 481, 488 (2014) [Per J. Brion, Second Division].

⁴⁰ *Novateknika Land Corp. v. Philippine National Bank*, 706 Phil. 414, 421 (2013) [Per J. Mendoza, Third Division].

⁴¹ CONSTITUTION, art. IX-C, sec. 3 reads:

SECTION 3. The Commission on Elections may sit *en banc* or in two divisions, and shall promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation controversies. All such election cases shall be heard and decided in division, **provided that motions for reconsideration of decisions shall be decided by the Commission *en banc*.** (Emphasis supplied)

⁴² See *Estate of Salvador Serra Serra v. Heirs of Hernaiz*, 503 Phil. 736, 743 (2005) [Per J. Ynares-Santiago, First Division].

⁴³ *Novateknika Land Corp. v. Philippine National Bank*, *supra* note 40, at 421–422.

has been previously filed with the CTA and disposed of in accordance with the provisions of this Act.

A party adversely affected by a resolution of a Division of the CTA on a motion for reconsideration or new trial, may file a petition for review with the CTA en banc. (Emphasis supplied)

The foregoing provision is clear—the jurisdiction of the CTA *En Banc* is limited. The law permits a petition for review only from a resolution of a CTA Division issued on a motion for reconsideration or new trial. To my mind, this presupposes that the resolution being reviewed is **final** in nature, typically disposing of the substantive issues in the case. It does not speak of interlocutory orders, which do not finally dispose of the case, but leaves something to be done by the court before the case is finally decided on the merits.⁴⁴

Moreover, the law authorizes a petition for review as the proper remedy to the CTA *En Banc* and not a motion for reconsideration. It does not mention filing a motion for reconsideration with the CTA *En Banc* from a ruling of the CTA Division, nor does it permit such a remedy by implication. Instead, it clearly outlines that the only procedural vehicle by which a party may bring a case before the CTA *En Banc* from the CTA Division is through a petition for review.

To interpret Section 18 of Republic Act No. 9282 as allowing interlocutory orders to be reviewed by the CTA *En Banc* on a motion for reconsideration would be to read into the law a remedy that was not granted. Such a reading would improperly expand the appellate jurisdiction of the CTA *En Banc* beyond the scope allowed by statute, which only Congress may define. It would effectively create a nonexistent appellate layer by allowing the CTA *En Banc* to act as a reviewing body even in the absence of a final judgment, which is contrary to the limited and specific appellate jurisdiction granted to it by statute.

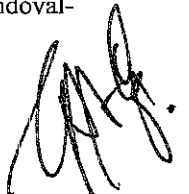
Given the statutory text and structure, interlocutory orders issued by a CTA Division must first be subject of a motion for reconsideration before the CTA Division that issued them, as the alleged error pertains to that Division. Only after the denial of the motion for reconsideration before the CTA Division may an aggrieved party challenge the ruling of the CTA Division before the Court through a petition for *certiorari* under Rule 65. Any attempt to involve the CTA *En Banc* in the reconsideration of interlocutory rulings departs from established rules of procedure.

The Court's ruling in Ligot

I acknowledge the ruling in *People of the Philippines v. Court of Tax Appeals-Third Division, Jacinto C. Ligot and Erlinda Y. Ligot*⁴⁵ (*Ligot*) which

⁴⁴ *Bonifacio Construction Management Corp. v. Perlas-Bernabe*, 501 Phil. 79, 83 (2005) [Per J. Sandoval-Gutierrez, Third Division].

⁴⁵ 932 Phil. 139 (2022) [Per J. Inting, Third Division].



held that the CTA *En Banc* has jurisdiction over a petition for *certiorari* under Rule 65 challenging the CTA Division's judgment of acquittal. Section 2(f), Rule 4 of the RRCTA states that it is the CTA *En Banc* which has exclusive appellate jurisdiction over decisions, resolutions or orders of the CTA Division involving criminal offenses arising from violations of the NIRC, among others:

SECTION 2. *Cases within the jurisdiction of the Court en banc.* —
The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

....

- (f) Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive original jurisdiction over cases involving criminal offenses arising from violations of the National Internal Revenue Code or the Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue or Bureau of Customs[.]

At first blush, it might seem that *Ligot* is inconsistent with *CBK* and the conclusion reached in the present case. However, a closer examination reveals that *Ligot* does not contradict *CBK*, as *Ligot* pertains specifically to a judgment of acquittal, which is fundamentally different from the interlocutory orders at issue in *CBK* and the present case.

In our jurisdiction, we adhere to the finality-of-acquittal doctrine, which holds that a judgment of acquittal is final and unappealable. This doctrine is rooted in the constitutional right of the accused against double jeopardy. The rule on double jeopardy, however, is not without exceptions, which are: (1) where there has been deprivation of due process and where there is a finding of a mistrial, or (2) where there has been a grave abuse of discretion under exceptional circumstances. Thus, a judgment of acquittal may only be assailed in a petition for *certiorari* under Rule 65 of the Rules of Court.⁴⁶

Thus, in *Ligot*, where the assailed ruling was a judgment of acquittal issued by the CTA Division, the proper remedy was indeed a petition for *certiorari* filed before the CTA *En Banc* rather than directly with the Court. This is because the CTA *En Banc* has exclusive appellate jurisdiction over final rulings of CTA Divisions in criminal tax cases. As such, it follows that the CTA *En Banc* may issue a writ of *certiorari* in cases where a judgment of acquittal by the CTA Division was rendered in excess of jurisdiction.

The ruling in *Ligot* does not apply to the present case, as the resolutions assailed here are merely interlocutory orders issued by the CTA Division. As established in *CBK*, it is the Court—not the CTA *En Banc*—that has jurisdiction over petitions for *certiorari* challenging interlocutory orders of CTA Divisions. The fundamental distinction between *Ligot*, *CBK*, and the

⁴⁶ *People v. Alejandro*, 823 Phil. 684, 692 (2018) [Per J. Tijam, First Division].



present case is that *Ligot* involved a final judgment of acquittal, while *CBK* and the present case concern interlocutory orders that do not finally dispose of the case.

As pointed out by CTA Associate Justice Jean Marie A. Bacorro-Villena in her Concurring Opinion in the proceedings below, the proper reading of *Ligot* is that the CTA *En Banc*'s jurisdiction over a petition for *certiorari* under Rule 65 is confined to cases involving final judgments or orders of a CTA Division that cannot be appealed before the CTA *En Banc*, such as judgments of acquittal in criminal tax cases.⁴⁷ However, the same rationale does not extend to interlocutory orders, where the main case continues and remains subject to appeal before the CTA *En Banc*.

Given the foregoing, there is no reason to depart from the established rulings in *CBK*, *Kepeco*, and subsequent cases, which confirm that it is the Court which has jurisdiction over petitions for *certiorari* against interlocutory orders of the CTA Divisions. Likewise, there is no basis to extend *Grecia-Cuerdo* to justify granting the CTA *En Banc certiorari* jurisdiction over the interlocutory orders issued by CTA Divisions.

In sum, I concur with the conclusion that the CTA *En Banc* cannot be granted the authority to take cognizance of petitions for *certiorari* involving interlocutory orders issued by the CTA Divisions, as doing so would disregard the collegiate nature of the CTA. A writ of *certiorari* is meant to keep the lower courts within the bounds of their jurisdiction, and the CTA Divisions are not lower courts in relation to the CTA *En Banc*. To hold otherwise would contradict the specialized appeal structure envisioned by Republic Act No. 9282.

Accordingly, I vote to **DENY** the Petition for Review on *Certiorari*.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

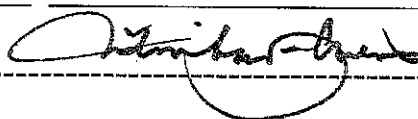
⁴⁷ J. Bacorro-Villena's Concurring Opinion in *Commissioner of Internal Revenue v. The Court of Tax Appeals-Second Division and Nippon Express Philippines Corporation*, C.T.A. EB Case No. 2580 (C.T.A. Case No. 10450), August 29, 2023 [Per J. Reyes-Fajardo, CTA *En Banc*].

EN BANC

G.R. No. 271701 (COMMISSIONER OF INTERNAL REVENUE,
Petitioner, v. NIPPON EXPRESS PHILIPPINES CORPORATION,
Respondent).

Promulgated:

May 6, 2025



X-----X

DISSENT

LAZARO-JAVIER, J.,

The core issue: which court has jurisdiction to issue writs of *certiorari* over interlocutory orders of the Court of Tax Appeals (CTA) Division?¹ The *ponencia* rules that this Court has primary jurisdiction to resolve petitions for *certiorari* filed assailing the interlocutory orders issued by the CTA Division and not the CTA *En Banc*.²

To recall, the CTA *En Banc* dismissed the Commission on Internal Revenue's (CIR) petition for *certiorari* under Rule 65 for lack of jurisdiction. The said petition was directed against the resolutions of the CTA Division declaring the CIR in default for its failure to file a hard copy of its Answer and allowing respondent Nippon Express Philippines Corporation to present its evidence *ex parte*. In the draft Decision, the *ponencia* agrees and holds that the CTA *En Banc* cannot take cognizance of a petition for *certiorari* assailing interlocutory orders of the CTA Division.

The *ponencia* ratiocinates that from a reading of Republic Act No. 1125,³ as amended by Republic Act No. 9282⁴ and Republic Act No. 9503,⁵ the CTA *En Banc* exercises exclusive appellate jurisdiction over decisions rendered by the CTA Division, whether in the exercise of its original and appellate jurisdiction in both civil and criminal actions. This is supported by A.M. No. 05-11-07-CTA, or the Revised Rules of the Court of Tax Appeals (RRCTA). However, the laws creating the CTA do not expressly grant the

¹ *Ponencia*, p. 1

² *Ponencia*, p. 29

³ An Act Creating the Court of Tax Appeals, June 16, 1954.

⁴ An Act Expanding the Jurisdiction of the Court of Tax Appeals, Elevating its Rank to the level of a Collegiate Court with Special Jurisdiction and Enlarging its Membership, amending for the purpose certain sections of Republic Act No. 1125, as amended, March 30, 2004.

⁵ An Act Enlarging the Organizational Structure of the Court of Tax Appeals, amending for the purpose certain sections of the law creating the Court of Tax Appeals, June 12, 2008.



CTA *En Banc* original jurisdiction over interlocutory orders issued by the CTA Division. Too, the RRCTA is silent as to the CTA *En Banc*'s original jurisdiction over such interlocutory orders.⁶

The *ponencia* further affirms that the CTA is a collegial body where no hierarchy exists between the CTA *En Banc* and the CTA Division. Pursuant thereto, the *ponencia* thus holds that the CTA *En Banc* cannot issue a writ of *certiorari* over decisions and resolutions issued by the CTA Division. With this ratiocination vis a vis the definition and nature of *certiorari*, "for a writ of *certiorari* to issue, the court granting the writ must be superior to the tribunal, board, or officer against whom the writ is directed." There being no hierarchy between the CTA *En Banc* and the CTA Division, the former has no jurisdiction to review interlocutory orders of the latter through a petition for *certiorari* under Rule 65 of the Rules of Court.⁷

Too, the authority of the CTA *En Banc* "to review final decisions, resolutions, or orders of a CTA Division does not make it a separate or higher court, nor does it give supervisory power to issue a writ of *certiorari* against its Divisions." The *ponencia* stresses that "the CTA *En Banc*'s appellate jurisdiction is limited to decision or resolutions resolving motions for reconsideration or new trial filed before the CTA Division, which presupposes that the case subject to appellate review involves a judgment on the merits or a final disposition."

I respectfully disagree.

First. True, Republic Act No. 9282 does not explicitly provide that the CTA *En Banc* has jurisdiction over petitions for *certiorari* against interlocutory orders of a CTA Division. Likewise, nowhere in the RRCTA provides that the CTA *En Banc* may take cognizance of petitions for *certiorari* against judgments, orders, or resolutions of a CTA Division. But the Rules of Court, which has suppletory application to the RRCTA, provides that *when by law, jurisdiction is conferred on a court or judicial officer, all auxiliary writs, processes, and other means necessary to carry it into effect may be employed by such court or officer; and if the procedure to be followed in the exercise of such jurisdiction is not specifically pointed out by law or by these rules, any suitable process or mode of proceeding may be adopted which appears conformable to the spirit of the said law or rules.*⁸

More, as ruled by the Court in *City of Manila v. Grecia-Cuerdo*,⁹ for any appellate court to effectively exercise its appellate jurisdiction, it must

⁶ *Ponencia*, pp. 6–12.

⁷ *Ponencia*, pp. 12–16.

⁸ Rule 135, Section 6, Rules of Court.

⁹ 726 Phil. 9 (2014) [Per J. Peralta, *En Banc*].

have the authority to issue, among others, a writ of *certiorari*. When the law vests exclusive jurisdiction over appealed tax cases upon the CTA *En Banc*, it carries such other power as is deemed necessary, if not indispensable, to the exercise of its appellate jurisdiction,¹⁰ including the authority to issue writs of *certiorari*. Otherwise, there would be split-jurisdiction between two tribunals over basically the same subject matter.¹¹

Here, it is undisputed that the questioned resolutions of the CTA Division are interlocutory in nature. The CTA Division declared petitioner in default for its failure to file a hard copy of its Answer to the petition filed by respondent; and allowed respondent to present its evidence *ex parte*.¹² The Court has previously explained that the word interlocutory refers to something intervening between the commencement and the end of the suit which decides some point or matter but is not a final decision of the whole controversy. An interlocutory order is an order that does not finally dispose of the case and does not end the Court's task of adjudicating the parties' contentions and determining their rights and liabilities as regards each other, but obviously indicates that other things remain to be done by the Court.¹³ An interlocutory order may only be questioned through a petition for *certiorari* as it is not a proper subject of appeal.¹⁴

Second. Although a petition for *certiorari* is an original and independent action and is not a part of the proceedings in the main case, the subject matter of a petition for *certiorari* must be directly and intimately connected to the subject matter of the main case, i.e., the resolution of the petition for *certiorari* assailing the interlocutory order would greatly affect the resolution of the main case. In other words, the disposition of the issue raised in the main case here is dependent on the disposition of the issue raised in the assailed interlocutory orders. In such a case, the CTA *En Banc* should take cognizance thereof instead of the Supreme Court.

Third. Notably, the petition for *certiorari* in *Grecia-Cuerdo*¹⁵ was directed against an RTC disposition concerning a local tax, while *People v. Ligo*¹⁶ was a petition for *certiorari* directed against a verdict of acquittal rendered by the CTA Division in a criminal case. In the aforementioned cases, the Court recognized that the CTA *En Banc* had the authority to resolve petitions for *certiorari* against the decisions, resolutions, or orders of the CTA Division. There is no cogent reason why the other cases falling within the

¹⁰ *Id.* at 24.

¹¹ *Id.* at 25.

¹² *Ponencia*, p. 5.

¹³ *Integrated Credit and Corporate Services, Co. v. Labrador*, G.R. No. 233127, July 10, 2023 [Per CJ Gesmundo, First Division], citing *Spouses Limso v. PNB*, 779 Phil. 287 (2016) [Per J. Leonen, Second Division].

¹⁴ Rule 41, Section 1, Rules of Court.

¹⁵ 726 Phil. 9 (2014) [Per J. Peralta, *En Banc*].

¹⁶ 932 Phil. 139 (2022) [Per J. Inting, Third Division].

exclusive appellate jurisdiction of the CTA *En Banc* under Section 2 of the RRCTA,¹⁷ should be excluded from the *certiorari* jurisdiction of the CTA *En Banc* whenever grave abuse of discretion amounting to excess or lack of jurisdiction taints the dispositions of the CTA Division, as in this case.

Finally. Recognizing the authority of the CTA *En Banc* to resolve petitions for *certiorari* against interlocutory orders of CTA Divisions would be more in keeping with the doctrine of hierarchy of courts. Under this doctrine, direct recourse to this Court is limited to questions of law, notwithstanding the invocation of paramount or transcendental importance of the action. This doctrine is not a mere policy, rather, it is a constitutional filtering mechanism designed to enable the Court to focus on the more fundamental and essential tasks assigned to it by the highest law of the land.¹⁸ The Court's strict adherence to the doctrine on hierarchy of courts is not merely due to judicial economy but also to ensure that every level of the Judiciary performs its designated roles in an efficient and effective manner. The Court is one of last resort, and direct recourse to it is not proper unless it is shown that there are special and important reasons.¹⁹ It cannot and should not be burdened with the task of dealing with causes in the first instance. Its original jurisdiction to issue the so-called extraordinary writs should be exercised only where absolutely necessary or where serious and important reasons exist therefor.²⁰

¹⁷ SECTION 2. Cases Within the Jurisdiction of the Court En Banc. — The Court en banc shall exercise exclusive appellate jurisdiction to review by appeal the following:

(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:

(1) Cases arising from administrative agencies — Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture;

(2) Local tax cases decided by the Regional Trial Courts in the exercise of their original jurisdiction; and

(3) Tax collection cases decided by the Regional Trial Courts in the exercise of their original jurisdiction involving final and executory assessments for taxes, fees, charges and penalties, where the principal amount of taxes and penalties claimed is less than one million pesos;

(b) Decisions, resolutions or orders of the Regional Trial Courts in local tax cases decided or resolved by them in the exercise of their appellate jurisdiction;

(c) Decisions, resolutions or orders of the Regional Trial Courts in tax collection cases decided or resolved by them in the exercise of their appellate jurisdiction;

(d) Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive original jurisdiction over tax collection cases;

(e) Decisions of the Central Board of Assessment Appeals (CBAA) in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals;

(f) Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive original jurisdiction over cases involving criminal offenses arising from violations of the National Internal Revenue Code or the Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue or Bureau of Customs;

(g) Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive appellate jurisdiction over criminal offenses mentioned in the preceding subparagraph; and

(h) Decisions, resolutions or orders of the Regional Trial Courts in the exercise of their appellate jurisdiction over criminal offenses mentioned in subparagraph (f).

¹⁸ *GIOS-SAMAR, Inc. v. DOTC*, 849 Phil. 120, 131–132 (2019) [Per J. Jardaleza, *En Banc*].

¹⁹ *Guiao v. PAGCOR*, G.R. No. 223845, May 28, 2024 [Per J. Leonen, *En Banc*], citing *Lihayhay v. Tan*, 836 Phil. 400 (2018) [Per J. Leonen, Third Division].

²⁰ *Id.*

Indeed, resolution of the assailed interlocutory orders issued by the CTA Division, being directly and intimately related to the issues raised in the main case, should be resolved by the CTA *En Banc* itself, and no other. This not only allows the CTA itself to exhaustively study the cases before it but also pass judgments on issues within its specialized competence over tax and tariff matters.


AMY C. LAZARO-JAVIER
Associate Justice

EN BANC

G.R. No. 271701 – COMMISSIONER OF INTERNAL REVENUE,
Petitioner, v. NIPPON EXPRESS PHILIPPINES CORPORATION,
Respondent.

Promulgated:

May 6, 2025

X-----X

CONCURRING AND DISSENTING OPINION

INTING, J.:

I agree with the finding that the present petition for review on *certiorari*¹ is already moot.² The records bear out that the Court of Tax Appeals (CTA) Division promulgated its Decision on September 28, 2023, which denied the petition for review filed by respondent Nippon Express, Inc.³ Subsequently, in a Resolution dated January 29, 2024, the CTA Division denied the respondent's motion for reconsideration.⁴ With the final resolution of the main case before the CTA Division, the present petition, which assails an interlocutory order, has indeed been rendered moot.

However, I must respectfully register my dissent from the majority's core ruling: that the jurisdiction of the CTA *En Banc* is strictly appellate, that it cannot issue a writ of *certiorari* against an interlocutory order of a CTA Division, and that the exercise of such power is precluded by the absence of a hierarchical relationship.

With due respect, the majority's reasoning is built on an untenable legal premise, misconstrues the very nature of the CTA's judicial power, and creates a procedural framework that is both inefficient and contrary to the doctrine of hierarchy of courts.

***The CTA En Banc's Certiorari Power is
an Inherent Component of its Judicial
Power and Appellate Jurisdiction.***

¹ *Rollo*, pp. 13–31.

² *Ponencia*, p. 5.

³ The dispositive portion of the Decision in CTA Case No. 10450 dated September 28, 2023, reads: WHEREFORE, the foregoing premises considered, the Petition for Review filed by Nippon Express Philippines Corporation on 15 January 2021 is hereby DENIED for lack of merit. SO ORDERED.

⁴ The dispositive portion of the Resolution in CTA Case No. 10450 dated January 29, 2024, reads: WHEREFORE, the foregoing premises considered, petitioner's "Motion for Reconsideration" filed on 03 November 2023 is DENIED for lack of merit. SO ORDERED.

M

It is undisputed that the CTA *En Banc* has appellate jurisdiction over decisions, resolutions, or orders of its Divisions under Section 2, Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA):

SEC. 2. Cases within the jurisdiction of the Court *en banc*.— The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:

- (1) Cases arising from administrative agencies — Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture;
- (2) Local tax cases decided by the Regional Trial Courts in the exercise of their original jurisdiction; and
- (3) Tax collection cases decided by the Regional Trial Courts in the exercise of their original jurisdiction involving final and executory assessments for taxes, fees, charges and penalties, where the principal amount of taxes and penalties claimed is less than one million pesos;

(d) Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive original jurisdiction over tax collection cases;

(f) Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive original jurisdiction over cases involving criminal offenses arising from violations of the National Internal Revenue Code or the Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue or Bureau of Customs;

(g) Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive appellate jurisdiction over criminal offenses mentioned in the preceding subparagraph; . . .

It is equally settled that interlocutory orders are not subject to appeal. However, Section 1,⁵ Rule 41 of the Rules of Court provides that the

⁵ RULES OF COURT, Rule 41, sec. 1 states:

Section 1. Subject of appeal. — An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable. No appeal may be taken from:

(c) An interlocutory order;

In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.

aggrieved party may file an appropriate special civil action under Rule 65. Given that Rule 65 is the exclusive remedy for challenging a non-appealable interlocutory order, the inquiry necessarily shifts to jurisdiction. The critical question is: which court has jurisdiction over such a petition against an interlocutory order of a CTA Division?

Despite the CTA *En Banc*'s clear appellate jurisdiction over decisions, resolutions, or orders of its divisions, the *ponencia* opined that it does not have *certiorari* jurisdiction over the interlocutory orders of its divisions. The *ponencia* posits that because the law creating the CTA does not expressly grant the CTA *En Banc* *certiorari* jurisdiction over interlocutory orders of a CTA Division, such power does not exist.⁶ This interpretation, with respect, is unduly narrow.

The power to issue a writ of *certiorari* is not a mere statutory creation; it is a constitutional grant. Section 1, Article VIII of the 1987 Constitution unequivocally vests courts with judicial power not only to settle actual controversies but also “to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.”

Stated differently, the power to review for grave abuse of discretion—the very essence of *certiorari*—is inherent in judicial power itself. As the CTA *En Banc* is a court of law established by statute, it is vested with this fundamental power. To deny the CTA *En Banc* the power to correct a grave abuse of discretion by one of its Divisions simply because the words “*certiorari* jurisdiction” are absent from its enabling act and the RRCTA is to deny it a fundamental judicial power that emanates not from the statute, but from the Constitution itself.

Moreover, as aptly pointed out by Our esteemed colleague, Associate Justice Amy C. Lazaro-Javier, a court or judicial officer vested with appellate jurisdiction may employ all auxiliary writs, processes, and other means necessary to carry it into effect. Thus, it can be reasonably inferred that the vesture of exclusive jurisdiction to the CTA *En Banc* over decisions, resolutions, or orders of its divisions “carries with it such other power as is deemed necessary, if not indispensable, to the exercise of its appellate jurisdiction, including the authority to issue writs of *certiorari*.”⁷

Compelling jurisprudence already recognizes and affirms the CTA *En Banc*'s *certiorari* jurisdiction over its Divisions' actions, whether interlocutory or final, particularly when such jurisdiction is in aid of its appellate power.

⁶ *Ponencia*, p. 11.

⁷ Associate Justice Amy C. Lazaro-Javier, Dissenting Opinion, p. 1.

The landmark case of *City of Manila v. Grecia-Cuerdo*⁸ specifically recognized the CTA *En Banc*'s inherent power to issue writs of *certiorari* against interlocutory orders of the Regional Trial Court (RTC) in aid of its exclusive appellate jurisdiction over decisions of RTCs in local tax cases:

[W]hile there is no express grant of such power, with respect to the CTA, Section 1, Article VIII of the 1987 Constitution provides, nonetheless, that judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law and that judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

On the strength of the above constitutional provisions, it can be fairly interpreted that the power of the CTA includes that of determining whether or not there has been grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the RTC in issuing an interlocutory order in cases falling within the exclusive appellate jurisdiction of the tax court. It, thus, follows that the CTA, by constitutional mandate, is vested with jurisdiction to issue writs of *certiorari* in these cases.

*Indeed, in order for any appellate court, to effectively exercise its appellate jurisdiction, it must have the authority to issue, among others, a writ of certiorari. In transferring exclusive jurisdiction over appealed tax cases to the CTA, it can reasonably be assumed that the law intended to transfer also such power as is deemed necessary, if not indispensable, in aid of such appellate jurisdiction. There is no perceivable reason why the transfer should only be considered as partial, not total.*⁹ (Emphasis supplied)

Considering that aggrieved parties have a right to appeal final orders or judgments of the CTA Divisions to the CTA *En Banc*, the *certiorari* power over interlocutory orders of the divisions logically follows.

Indeed, in *Garcia v. De Jesus*¹⁰ and *Dept. of Agrarian Reform Adjudication Board v. Lubrica*,¹¹ the Court held that the grant of appellate jurisdiction does not immediately carry with it the grant of *certiorari* jurisdiction; however, this doctrine finds no application to a judicial body such as the CTA *En Banc*.

In *Garcia*, the Court held that the COMELEC does not have the power to issue writs of *certiorari* over interlocutory orders of the RTCs despite its

⁸ 726 Phil. 9 (2014).

⁹ *Id.* at 24.

¹⁰ 283 Phil. 735 (1992).

¹¹ 497 Phil. 313 (2005).

appellate jurisdiction over electoral contests concerning municipal and barangay officials.¹² It must be noted, however, that the pivotal reason for this ruling is that while the COMELEC exercises quasi-judicial powers, it is neither a judicial tribunal¹³ nor a “superior court” *vis-à-vis* the RTC, considering that RTCs have jurisdiction to review the actions taken by the COMELEC in criminal prosecutions for violations of election laws.¹⁴

Similarly, in *Lubrica*, the Court held that the grant of original jurisdiction to issue a writ of *certiorari* to the Department of Agrarian Reform Adjudication Board (DARAB), a quasi-judicial agency, is not implied, *viz.* :

In general, the quantum of judicial or quasi-judicial powers which an administrative agency may exercise is defined in the enabling act of such agency. In other words, the extent to which an administrative entity may exercise such powers depends largely, if not wholly, on the provisions of the statute creating or empowering such agency. *The grant of original jurisdiction on a quasi-judicial agency is not implied.* There is no question that the legislative grant of adjudicatory powers upon the DAR, as in all other quasi-judicial agencies, bodies and tribunals, is in the nature of a limited and special jurisdiction, that is, the authority to hear and determine a class of cases within the DAR’s competence and field of expertise. *In conferring adjudicatory powers and functions on the DAR, the legislature could not have intended to create a regular court of justice out of the DARAB, equipped with all the vast powers inherent in the exercise of its jurisdiction. The DARAB is only a quasi-judicial body, whose limited jurisdiction does not include authority over petitions for certiorari, in the absence of an express grant in R.A. No. 6657, E.O. No. 229 and E.O. No. 129-A.*¹⁵ (Emphasis supplied; citation omitted)

Evidently, the power to review grave abuse of discretion—the very essence of *certiorari* jurisdiction—is strictly a judicial power. The 1987 Constitution vests this power exclusively in the Court and the lower courts established by law. Consequently, this power cannot be wielded by quasi-judicial agencies such as the COMELEC and the DARAB, which belong to the Executive branch.

In sharp contrast to the COMELEC and the DARAB, the CTA *En Banc* is a judicial tribunal vested with inherent judicial powers. Therefore, its power to issue writs of *certiorari* is undeniable, rendering the established doctrine in *Garcia* and *Lubrica* inapplicable to the case at bar.

The Supreme Court’s ruling in *People of the Philippines v. Court of Tax Appeals – Third Division (Ligot)*¹⁶ unequivocally establishes that the CTA *En*

¹² *Garcia v. De Jesus*, *supra* at 751.

¹³ *Id.* at 752.

¹⁴ *Id.* at 752–753, citing *People v. Delgado*, 267 Phil. 758 (1990).

¹⁵ *Dept. of Agrarian Reform Adjudication Board v. Lubrica*, *supra* at 324.

¹⁶ 932 Phil. 139 (2022).

Banc has jurisdiction to issue a writ of *certiorari* against a judgment of acquittal issued by its Division.¹⁷ If the CTA *En Banc* can review a final and unappealable judgment of acquittal *via certiorari* (an extraordinary remedy for jurisdictional error), there is no logical or principled reason why it cannot review interlocutory orders of its Divisions which, as Section 1, Rule 41 of the Rules of Court expressly states, are subject to a Rule 65 petition. The distinction drawn by the majority is arbitrary and lacks basis in the consistent application of the Rules of Court and established jurisprudence.

The stance of the majority of the Court leads to an illogical splitting of *certiorari* jurisdiction over non-appealable orders or judgments of the CTA Divisions: final judgments of CTA Divisions alleged to be tainted by grave abuse would be brought to the CTA *En Banc*, while interlocutory orders also alleged to be attended by grave abuse would bypass the CTA *En Banc* and proceed directly to the Court.

As held in *Grecia-Cuerdo*, the splitting of jurisdiction between two judicial bodies over basically the same subject matter is anathema to the orderly administration of justice, to wit:

If this Court were to sustain petitioners' contention that jurisdiction over their *certiorari* petition lies with the CA, this Court would be confirming the exercise by two judicial bodies, the CA and the CTA, of jurisdiction over basically the same subject matter — precisely the split-jurisdiction situation which is anathema to the orderly administration of justice. The Court cannot accept that such was the legislative motive, especially considering that the law expressly confers on the CTA, the tribunal with the specialized competence over tax and tariff matters, the role of judicial review over local tax cases without mention of any other court that may exercise such power. Thus, the Court agrees with the ruling of the CA that *since appellate jurisdiction over private respondents' complaint for tax refund is vested in the CTA, it follows that a petition for certiorari seeking nullification of an interlocutory order issued in the said case should, likewise, be filed with the same court. To rule otherwise would lead to an absurd situation where one court decides an appeal in the main case while another court rules on an incident in the very same case.*¹⁸ (Emphasis supplied; citation omitted)

To deprive the CTA *En Banc* of its *certiorari* powers with respect to interlocutory orders of its Divisions is not only procedurally inefficient but also violative of the well-established doctrine of hierarchy of courts. The principle of judicial hierarchy dictates that recourse must be had to the CTA *En Banc* first before allowing the invocation of the Court's *certiorari* jurisdiction.¹⁹

¹⁷ *Id.* at 154. See also *People v. Court of Tax Appeals, Second Division and Joselito B. Yap*, G.R. Nos. 254591 & 254675, January 30, 2023.

¹⁸ *City of Manila v. Grecia-Cuerdo*, *supra* note 8, at 25–26.

¹⁹ See *People of the Philippines v. Court of Tax Appeals – Third Division*, *supra* note 16, at 154.

The CTA *En Banc*, as the immediate reviewing body for its Divisions, is the proper forum for addressing jurisdictional errors and grave abuses of discretion, regardless of whether they arise from an interlocutory order or a final judgment. To mandate direct recourse to the Court for interlocutory matters would unduly burden the Court and disregard the CTA's own internal appellate mechanism.

The Precedents Relied Upon by the Ponencia are Inapplicable

A closer examination of the cases cited by the *ponencia*, i.e., *Commissioner of Internal Revenue v. Kepco Ilijan Corp.*²⁰ and *Commissioner of Internal Revenue v. Court of Tax Appeals and CBK Power Company Limited*,²¹ suggests that these precedents may not be squarely applicable to the precise issue at hand.²²

The statement in *Kepco* that there is “no hierarchy within a collegial court”²³ was an *obiter dictum*.

The *Kepco* ruling hinged on the silence of the laws creating the CTA and expanding its jurisdiction (Republic Act Nos. 1125 and 9282), as well as the RRCTA, regarding the CTA *En Banc*'s power to set aside a final and executory judgment of its division via Rule 47 of the Rules of Court on the grounds of extrinsic fraud and lack of jurisdiction. Rule 47 of the Rules of Court, an extraordinary remedy that carves an exception to the doctrine of immutability of judgment, should be strictly construed.

The Court's statement in *Kepco* that “there can be no hierarchy within a collegial court between its divisions and the *en banc*,”²⁴ was, respectfully, an *obiter dictum* as it is not essential to the core ruling on the unavailability of a Rule 47 petition. As such, it lacks the binding force of *stare decisis*.²⁵

Furthermore, a key point of distinction in *Kepco* is its analogy between the CTA *En Banc*, the Court *En Banc*, and the CA *En Banc*. This comparison is not precise as the Court and the CA *En Banc* do exercise appellate jurisdiction over their respective divisions, whereas the CTA *En Banc* was granted an adjudicatory function²⁶ and appellate jurisdiction over resolutions

²⁰ 787 Phil. 698 (2016).

²¹ 765 Phil. 140 (2015).

²² *Ponencia*, pp. 14–16, 28.

²³ *Commissioner of Internal Revenue v. Kepco Ilijan Corp.*, *supra* at 707.

²⁴ *Id.*

²⁵ See *Villanueva, Jr. v. Court of Appeals*, 429 Phil. 194, 202 (2002).

²⁶ See Republic Act No. 1125, as amended, sec. 2:

SEC. 2. Sitting En Banc or Division; Quorum; Proceedings. - The CTA may sit en banc or in two (2)

of its divisions on a motion for reconsideration or new trial.²⁷ The CTA *En Banc*'s appellate jurisdiction establishes a clear hierarchy of review within the CTA itself, where the CTA sitting *en banc* acts as a reviewing body for its Divisions. This fundamental difference renders the comparison made in *Kepeco* untenable.

Similarly, the *ponencia*'s reliance on *CBK Power* may warrant a more nuanced interpretation.

The statement in *CBK Power*, that "the CTA *en banc* has jurisdiction over final order or judgment but not over interlocutory orders issued by the CTA in division"²⁸ is based on an incomplete interpretation of Section 1, Rule 41 of the Rules of Court.

For context, the private respondent in *CBK Power* argued that the proper remedy to assail the order declaring petitioner in default issued by the CTA division is a petition for review to the CTA *en banc*. Ruling in the negative, the Court explained that a petition for review under the RRCTA is akin to appeals in courts of general jurisdiction; thus:

[T]he petition for review to be filed with the CTA en banc as the mode for appealing a decision, resolution, or order of the CTA Division, under Section 18 of Republic Act No. 1125, as amended, is not a totally new remedy, unique to the CTA, with a special application or use therein. To the contrary, the CTA merely adopts the procedure for petitions for review and appeals long established and practiced in other Philippine courts. Accordingly, doctrines, principles, rules, and precedents laid down in jurisprudence by this Court as regards petitions for review and appeals in courts of general jurisdiction should likewise bind the CTA, and it cannot depart therefrom.

According to Section 1, Rule 41 of the Revised Rules of Court, governing appeals from the Regional Trial Courts (RTCs) to the Court of Appeals, an appeal may be taken only from a judgment or final order that completely disposes of the case or of a matter therein when declared by the Rules to be appealable. Said provision, thus, explicitly states that no appeal may be taken from an interlocutory order.

It is, therefore, clear that the CTA en banc has jurisdiction over final

Divisions, each Division consisting of three (3) Justices.

...


The affirmative votes of four (4) members of the Court en banc or two (2) members of a Division, as the case may be, shall be necessary for the rendition of a decision or resolution. (Emphasis supplied)

²⁷ See Republic Act No. 1125, as amended, sec. 18:

SEC. 18. Appeal to the Court of Tax Appeals En Banc. - No civil proceeding involving matter arising under the National Internal Revenue Code, the Tariff and Customs Code or the Local Government Code shall be maintained, except as herein provided, until and unless an appeal has been previously filed with the CTA and disposed of in accordance with the provisions of this Act.

A party adversely affected by a resolution of a Division of the CTA on a motion for reconsideration or new trial, may file a petition for review with the CTA en banc. (Emphasis supplied)

²⁸ 765 Phil. 140, 151 (2015).



*order or judgment but not over interlocutory orders issued by the CTA in division.*²⁹ (Emphasis supplied)

While the Court correctly held in *CBK Power* that a petition for review is unavailable for interlocutory orders, its reasoning did not fully account for the explicit qualifying clause in the last paragraph of the same rule: “[i]n all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.” This crucial last paragraph demonstrates that *non-appealability is not synonymous with being unreviewable*. Instead, the Rules of Court provides a distinct and specific remedy for such non-appealable orders—a special civil action for *certiorari* under Rule 65.

Given that subsequent rulings have been built upon these precedents, it is imperative for the Court to re-examine them now to prevent the perpetuation of a procedural framework that is at odds with the constitutional grant of judicial power. To continue down this path is to disregard the clear import of *Grecia-Cuerdo*, which affirmed that the grant of appellate jurisdiction carries with it the power to issue a writ of *certiorari* when necessary in aid of such jurisdiction. The logic is inescapable: if the CTA *En Banc* has appellate jurisdiction over the final orders of its Divisions, it must also have the *certiorari* power over their interlocutory orders to make its appellate jurisdiction effective.

A Functional Hierarchy Exists Within the CTA

The *ponencia* insists that there can be no hierarchy within a collegial court, and thus, the CTA *En Banc* cannot exercise supervisory correction over its Divisions.³⁰ This view is overly simplistic and ignores the functional reality of the CTA’s structure as intended by the legislature.

While the CTA Divisions and the *En Banc* constitute a single judicial entity, they are organized to facilitate a clear division of labor and an internal process of review. The very *raison d’être* of the CTA *En Banc* is to act as a reviewing body for the decisions or resolutions of the Divisions. As then Senate President Franklin M. Drilon articulated during the deliberations for Republic Act No. 9282, the CTA *En Banc* was created to ensure “less divisive rulings on tax matters”; thus:

Mr. President, another important feature of this measure is that appeals from decisions of the Court of Tax Appeals are no longer appealable to the Court of Appeals. Under the modified appeal procedure, the decision

²⁹ *Commissioner of Internal Revenue v. Court of Tax Appeals and CBK Power Company Limited, supra* at 151.

³⁰ *Ponencia*, pp. 16–19.

of a division of the Court of Tax Appeals may be appealed to the Court of Tax Appeals *en banc*. The decision of the Court of Tax Appeals *en banc* may in turn be directly appealed to the Supreme Court only on a question of law. **This is expected to facilitate court proceedings in tax cases since the Court of Tax Appeals has admittedly the necessary expertise in tax matters.** Moreover, there will be less divisive rulings on tax matters **since appeal shall be made only to the Court of Tax Appeals *en banc* instead of the Court of Appeals with its many divisions.**³¹

Evidently, an internal review structure was created within the CTA to allow the CTA *En Banc* to review the rulings of its Divisions, specifically to ensure “less divisive rulings on tax matters.” In other words, the CTA *En Banc* was established precisely to maintain consistency in court rulings on tax matters. Surely, this consistency was not solely aimed at final orders but logically extends to interim rulings, such as denials of motions to dismiss, motions to lift default orders, or demurrers to evidence. This legislative intent establishes a *functional hierarchy* where the *En Banc* is designed to oversee and correct the rulings of the Divisions to ensure consistency and correctness.

The power of the *En Banc* to review and reverse final judgments of the Divisions is the ultimate exercise of this functional superiority. It is therefore illogical in the extreme to suggest that a body empowered to overturn the final outcome of a case is somehow incapable of addressing and correcting a grave procedural error in an interlocutory order that could lead to a fundamentally flawed process. To deny the CTA *En Banc* this power is akin to arguing that the Court can reverse a final, erroneous judgment from a lower court on appeal but cannot issue a writ of *certiorari* to correct a grave abuse of discretion in an interlocutory order that deprived a party of due process. An unchecked interlocutory order, such as one improperly denying a motion to lift an order of default, can cause irreparable harm that cannot be remedied on final appeal.

***The Legal Maxim Nemo Debet Esse
Judex in Propria Causa is Inapplicable***

The *ponencia* expresses concern with justices sitting in review of their own actions, a situation contrary to the principle of *nemo debet esse judex in propria causa* (the *nemo judex* principle).³² This concern, while valid in principle, is misplaced here.

The very structure of the CTA, as amended by Republic Act No. 9282, was deliberately designed by Congress for the CTA *En Banc* to perform a review function over its divisions. Section 2³³ of Republic Act No. 9282, first

³¹ Sponsorship Speech of Senate President Franklin M. Drilon, December 1, 2003, Record of the Senate, Volume III, No. 41, Twelfth Congress, Third Regular Session, p. 53.

³² *Ponencia*, p. 20.

³³ SEC. 2. *Sitting En Banc or Division; Quorum; Proceedings.* - The CTA may sit en banc or in two (2)

establishes the court's dual structure, allowing it to sit *en banc* or in divisions. Section 11 of Republic Act No. 9282, amending Section 18 of Republic Act No. 1125, then defines the relationship between them, granting the *En Banc* the specific power to act on petitions for review filed against a Division's resolution on a motion for reconsideration or new trial, to wit:

Section 11. Section 18 of the same Act is hereby amended as follows:

SEC. 18. *Appeal to the Court of Tax Appeals En Banc.* - No civil proceeding involving matter arising under the National Internal Revenue Code, the Tariff and Customs Code or the Local Government Code shall be maintained, except as herein provided, until and unless an appeal has been previously filed with the CTA and disposed of in accordance with the provisions of this Act.

A party adversely affected by a resolution of a Division of the CTA on a motion for reconsideration or new trial, may file a petition for review with the CTA *en banc*.

This clear statutory path confirms that Congress intentionally designed the CTA *En Banc* to perform a vital check on the actions of its Divisions. *Notably, the phrase "resolution of a Division of the CTA on a motion for reconsideration or new trial" makes no distinction whatsoever between final orders that completely dispose of a case and interlocutory orders that resolve incidental matters.* This broad, unqualified grant of jurisdiction signifies the legislative intent for the CTA *En Banc* to act as a comprehensive review mechanism. By empowering the CTA *En Banc* to review all decisions or resolutions of a Division (upon the filing of a motion for reconsideration), the legislature has institutionalized a seamless, two-tiered adjudicative process within a single court. This structure is fundamentally at odds with the premise of the principle of *nemo iudex*.

This two-tiered adjudicative process is determinative. The legislative intent was not to create three separate and independent courts but a single, collegial CTA that operates in two tiers: the Division level for initial adjudication and the *En Banc* level for appellate review. The "cause" before the CTA *En Banc* is not the Division's "own cause" in the sense contemplated by the maxim. Rather, it is the exercise of an appellate mandate conferred by law upon the Court as a single, unified judicial body. Applying the *nemo iudex* principle in this context would not only contravene the plain language of

Divisions, each Division consisting of three (3) Justices.

Four (4) Justices shall constitute a quorum for sessions *en banc* and two (2) Justices for sessions of a Division: Provided, That when the required quorum cannot be constituted due to any vacancy, disqualification, inhibition, disability, or any other lawful cause, the Presiding Justice shall designate any Justice of other Divisions of the Court to sit temporarily therein.

The affirmative votes of four (4) members of the Court *en banc* or two (2) members of a Division, as the case may be, shall be necessary for the rendition of a decision or resolution.

Republic Act No. 9282 but would also paralyze the CTA and render its prescribed judicial structure meaningless.

The position that *En Banc* review by fellow Justices would “erode the principle of collegiality”³⁴ and turn “judicial dialogue into judicial surveillance”³⁵ is, with all due respect, a fundamental mischaracterization of the nature of a collegial court.

Collegiality is not synonymous with passive unanimity or an absence of disagreement. On the contrary, the strength of a multi-member court lies precisely in the crucible of intellectual debate, mutual scrutiny, and the challenging of judicial reasoning among its members. This internal dynamic is what refines legal arguments, uncovers overlooked facts, and ensures that the final decision is robust, well-reasoned, and legally sound. It is the very engine of judicial excellence.

Far from fostering a “climate of internal scrutiny and distrust,”³⁶ this process embodies true judicial dialogue. It is a testament to the institutional maturity and intellectual humility of the Justices, who accept that their reasoning at the Division level is subject to further review and refinement by the court as a whole. This is not “surveillance”; it is collaboration. It is not “distrust;” it is a shared commitment to the administration of justice. The ultimate loyalty of every Justice is not to their own previously-held opinion, but to the law and to justice itself. The *En Banc* review process is the ultimate expression of that collective loyalty.

To conclude, applying the *nemo judex* maxim would dismantle the very legal structure the legislature created for the CTA. The legislative mandate is clear and its jurisdictional grant is broad; the internal procedural safeguards are effective; and the philosophical foundation of collegiality supports, rather than condemns, this form of internal review. When the CTA *En Banc* reviews a ruling from one of its Divisions—whether final or interlocutory—it is not a separate entity judging another. Rather, it is the court in its highest form, employing a statutorily designed, two-tiered process to refine and perfect its own work. This is not an act of self-interest, which the *nemo judex* principle prohibits; it is an act of institutional integrity, which the law demands. The system is designed to promote the highest standards of judicial review within a specialized field, and it should be allowed to function as the legislature intended.

³⁴ *Ponencia*, p. 22.

³⁵ *Id.*

³⁶ *Id.*

***Direct Recourse to the Supreme Court
is Procedurally Unsound and Violates
the Doctrine of Hierarchy of Courts***

The *ponencia*'s ultimate conclusion—that petitions for *certiorari* against interlocutory orders of a CTA Division must be filed directly with this Court³⁷—is a direct assault on the doctrine of hierarchy of courts.

As the Court emphatically declared in *GIOS-SAMAR, Inc. vs. Dept. of Transportation and Communications, et al.*,³⁸ this doctrine is “not mere policy[;] rather, it is a *constitutional filtering mechanism* designed to enable the Court to focus on the more fundamental and essential tasks assigned to it by the highest law of the land.”³⁹ Its purpose is to prevent the inundation of the Court’s dockets and to allow the Court to focus on the essential tasks of resolving novel constitutional questions and settling significant issues of law.

Mandating that all petitions assailing interlocutory orders of the CTA Divisions be brought directly to the Court would create the very evil the doctrine seeks to avoid. It would force the Court to micromanage the trial proceedings of a specialized court, opening our docket to a flood of petitions questioning every interlocutory order by the Divisions of the CTA. This leads to the absurd and inefficient splitting of jurisdiction, where the CTA *En Banc* reviews final judgments while this Court reviews the interlocutory incidents of the very same case—precisely the “split-jurisdiction situation which is anathema to the orderly administration of justice” that the Court condemned in *Grecia-Cuerdo*.

This is not the first time the Court has been called upon to clarify a procedural pathway to prevent such jurisdictional confusion. In the landmark case of *St. Martin Funeral Home v. National Labor Relations Commission*,⁴⁰ the Court was confronted with a similar procedural gaffe in Batas Pambansa Blg. 129, which created an illogical and impracticable appellate route from the NLRC. Recognizing the imperative need for expeditious action and the fact that the Court is not a trier of facts, the Court decisively intervened:

As earlier explained, our mode of judicial review over decisions of the NLRC has for some time now been understood to be by a petition for *certiorari* under Rule 65 of the Rules of Court. This is, of course, a special original action limited to the resolution of jurisdictional issues, that is, lack or excess of jurisdiction and, in almost all cases that have been brought to us, grave abuse of discretion amounting to lack of jurisdiction.

It will, however, be noted that paragraph (3), Section 9 of B.P. No.

³⁷ *Id.* at 27–28.

³⁸ 849 Phil 120 (2019).

³⁹ *Id.* at 131–132.

⁴⁰ 356 Phil. 811 (1998).

129 now grants exclusive appellate jurisdiction to the Court of Appeals over all final adjudications of the Regional Trial Courts and the quasi-judicial agencies generally or specifically referred to therein except, among others, "those falling within the appellate jurisdiction of the Supreme Court in accordance with . . . the Labor Code of the Philippines under Presidential Decree No. 442, as amended, . . ." This would necessarily contradict what has been ruled and said all along that appeal does not lie from decisions of the NLRC. Yet, under such excepting clause literally construed, the appeal from the NLRC cannot be brought to the Court of Appeals, but to this Court by necessary implication.

The same exceptive clause further confuses the situation by declaring that the Court of Appeals has no appellate jurisdiction over decisions falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the provisions of B. P. No. 129, and those specified cases in Section 17 of the Judiciary Act of 1948. These cases can, of course, be properly excluded from the exclusive appellate jurisdiction of the Court of Appeals. However, because of the aforementioned amendment by transposition, also supposedly excluded are cases falling within the appellate jurisdiction of the Supreme Court in accordance with the Labor Code. This is illogical and impracticable, and Congress could not have intended that procedural gaffe, since there are no cases in the Labor Code the decisions, resolutions, orders or awards wherein are within the appellate jurisdiction of the Supreme Court or of any other court for that matter.

...

While we do not wish to intrude into the Congressional sphere on the matter of the wisdom of a law, on this score we add the further observations that there is a growing number of labor cases being elevated to this Court which, not being a trier of fact, has at times been constrained to remand the case to the NLRC for resolution of unclear or ambiguous factual findings; that the Court of Appeals is procedurally equipped for that purpose, aside from the increased number of its component divisions; and that there is undeniably an imperative need for expeditious action on labor cases as a major aspect of constitutional protection to labor.

Therefore, all references in the amended Section 9 of B.P. No. 129 to supposed appeals from the NLRC to the Supreme Court are interpreted and hereby declared to mean and refer to petitions for certiorari under Rule 65. Consequently, all such petitions should henceforth be initially filed in the Court of Appeals in strict observance of the doctrine on the hierarchy of courts as the appropriate forum for the relief desired.⁴¹ (Citations omitted)


The instant case presents a perfect parallel. The *ponencia*, in effect, creates a procedural anomaly as disruptive as the one corrected in *St. Martin*. Instead of an unsound jurisdictional leap to this Court, the Court should follow the wisdom of *St. Martin*.

The judicial policy is clear: the Court will not entertain direct resort to

⁴¹ *Id.* at 819-824.

it when redress can be obtained in the appropriate courts, both to preserve our precious time and to avoid the delays inherent in remanding cases. The CTA *En Banc*, as the immediate reviewing body for its Divisions, is the proper and most efficient forum for addressing jurisdictional errors. It is the constitutional filter that stands between the Divisions of the CTA and the Court. To bypass it is to violate a fundamental principle of our judicial structure. This case is an opportunity to provide clear, prospective guidance and definitively declare that the proper recourse against an interlocutory order of a CTA Division is a petition for *certiorari* with the CTA *En Banc*.

For the foregoing reasons, while I concur that the petition must be dismissed for being moot, I dissent from the *ponencia's* restrictive reasoning that, in my view, unduly limits the CTA *En Banc* and undermines the orderly administration of justice and the doctrine of hierarchy of courts.



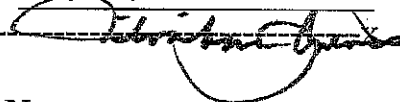
HENRI JEAN PAUL B. INTING
Associate Justice

EN BANC

G.R. No. 271701 – COMMISSIONER OF INTERNAL REVENUE,
Petitioner, versus, NIPPON EXPRESS PHILIPPINES CORPORATION,
Respondent.

Promulgated:
May 6, 2025

X-----



DISSENTING OPINION

LOPEZ, M., J.:

The majority concluded that this Court has the exclusive jurisdiction over petitions for *certiorari* against interlocutory orders of the Court of Tax Appeals (CTA) acting in divisions.

I strongly disagree.

The CTA is a highly specialized body created specifically to review tax cases. It exercises its adjudicative powers, functions, and duties *en banc* or in Divisions.¹ The tax court acts as an appellate court in reviewing by appeal decisions, resolutions, or orders of any of its divisions, among other things.² To effectively exercise its appellate jurisdiction, therefore, the CTA sitting *en banc* must have the authority to take cognizance of petitions for *certiorari* imputing grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any of its divisions in aid of its appellate jurisdiction. To rule otherwise would lead to an absurd situation where one court decides an appeal in the main case while another court rules on an incident in the very same case.³

I will explain.

Briefly, the petition for review on *certiorari*⁴ filed by the Commissioner of Internal Revenue (CIR) challenges the August 29, 2023 Decision⁵ and January 26, 2024 Resolution⁶ of the CTA *En Banc* in CTA EB Case No. 2580 that dismissed the CIR's petition for lack of jurisdiction. The CIR questioned

¹ SEC. 2, RULE 2, A.M. NO. 05-11-07-CTA, REVISED RULES OF THE COURT OF TAX APPEALS, November 22, 2005.

² SEC. 2, RULE 4, A.M. NO. 05-11-07-CTA.

³ *City of Manila v. Grecia-Cuerdo*, 726 Phil. 9-28 (2014) [Per J. Peralta, *En Banc*].

⁴ *Rollo*, pp. 13-31.

⁵ *Id.* at 39-47. The Decision was penned by Associate Justice Marian Ivy F. Reyes-Fajardo. Presiding Justice Roman G. Del Rosario issued Dissenting Opinion and joined by Associate Justices Ma. Belen M. Ringpis-Liban, Catherine T. Manahan, and Maria Rowena Modesto-San Pedro, *id.* at 48-54. Associate Justice Jean Marie A. Bacorro-Villena issued Separate Concurring Opinion, *id.* at 55-60. Associate Justice Lanee S. Cui-David issued Separate Concurring Opinion and joined by Associate Justice Corazon G. Ferrer-Flores, *id.* at 61-65.

⁶ *Id.* at 67-70. The Resolution was penned by Associate Justice Marian Ivy F. Reyes-Fajardo and concurred in by Associate Justices Jean Marie A. Bacorro-Villena, Lanee S. Cui-David, Corazon G. Ferrer-Flores, and Henry S. Angeles. Presiding Justice Roman G. Del Rosario reiterated his Dissenting Opinion and joined by Associate Justices Ma. Belen M. Ringpis-Liban, Catherine T. Manahan, and Maria Rowena Modesto-San Pedro.

8

the interlocutory rulings of the CTA Division before the CTA *En Banc*, which declared the CIR in default for its failure to file a hard copy of the Answer to the petition filed by Nippon Express Philippines Corporation (Nippon Express) and allowed Nippon Express to present its evidence *ex parte*.

I.

At the onset, the case is already moot, considering the developments on the main case and the subject matter of the present petition for *certiorari*. The records of the CTA would show that the CTA Division promulgated a Decision on September 28, 2023, denying Nippon Express's petition for lack of merit, and a Resolution on January 29, 2024 that denied Nippon Express' motion for reconsideration on the main case.⁷

A case becomes moot when it ceases to present a justiciable controversy by supervening events so that an adjudication of the case or a declaration on the issue would be of no practical value or use.⁸ In such an instance, there is no actual substantial relief to which a petitioner would be entitled and which would be negated by the dismissal of the petition.⁹ Accordingly, courts generally decline jurisdiction over such a case or dismiss it on the ground of mootness since the judgment will not serve any useful purpose or have any practical legal effect because, in the nature of things, it cannot be enforced.¹⁰

Consequently, there is no more justiciable controversy on the propriety of allowing the presentation of Nippon Express's evidence *ex parte*. The CTA Division already decided on the main case.

In any case, the Court may decide cases otherwise moot and academic if it is capable of repetition yet evading review and to formulate controlling principles to guide the bench, the bar, and the public,¹¹ as in this case.

II.

Certiorari power of the CTA En Banc over decisions, resolutions, or orders of the CTA Division

There is no question, the July 21, 2021 and November 17, 2021 Resolutions of the CTA Division are interlocutory orders since they did not

⁷ The dispositive portion of the Decision in CTA Case No. 10450 dated September 28, 2023 reads: **WHEREFORE**, the foregoing premises considered, the Petition for Review filed by Nippon Express Philippines Corporation on 15 January 2021 is hereby **DENIED** for lack of merit. **SO ORDERED.**

The dispositive portion of the Resolution in CTA Case No. 10450 dated January 29, 2024 reads: **WHEREFORE**, the foregoing premises considered, petitioner's "Motion for Reconsideration" filed on 03 November 2023 is **DENIED** for lack of merit. **SO ORDERED.**

⁸ *So v. Tacla, Jr.*, 648 Phil. 149-165 (2010) [Per J. Nachura, *En Banc*]; *Philippine Airlines v. Pascua*, 456 Phil. 425-439 (2003) [Per J. Quisumbing, Second Division].

⁹ *Philippine Airlines v. Pascua*, 456 Phil. 425-439 (2003) [Per J. Quisumbing, Second Division].

¹⁰ *Vilando v. House of Representatives Electoral Tribunal*, 671 Phil. 524-540 (2011) [Per J. Mendoza, *En Banc*].

¹¹ *Umali v. Judicial and Bar Council*, 814 Phil. 253-343 (2017) [Per J. Velasco, Jr. *En Banc*].

finally dispose of the case on the merits.¹² The CTA Division merely declared the CIR in default for its failure to file a hard copy of the Answer to the petition filed by Nippon Express and allowed Nippon Express to present its evidence *ex parte*.

The issue now is this: which court has jurisdiction over interlocutory orders of the CTA Division?

Jurisdiction is defined as the power and authority of a court to hear, try, and decide a case.¹³ It is never presumed but is conferred by law.¹⁴ As early as in *Ker & Co., Ltd. v. Court of Tax Appeals*,¹⁵ the Court emphasized that “the Tax Court is a court of special jurisdiction. As such, it can only take cognizance of such matters as are clearly within its jurisdiction.”

Section 2, Rule 4 of A.M. No. 05-11-07-CTA¹⁶ or the Revised Rules of the Court of Tax Appeals (RRCTA) enumerates cases cognizable by the CTA *En Banc*, to wit:

SECTION 2. *Cases Within the Jurisdiction of the Court En Banc.* — The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

(a) **Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:**

(1) Cases arising from administrative agencies — Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture;

(2) Local tax cases decided by the Regional Trial Courts in the exercise of their original jurisdiction; and

(3) Tax collection cases decided by the Regional Trial Courts in the exercise of their original jurisdiction involving final and executory assessments for taxes, fees, charges and penalties, where the principal amount of taxes and penalties claimed is less than one million pesos;

(b) Decisions, resolutions or orders of the Regional Trial Courts in local tax cases decided or resolved by them in the exercise of their appellate jurisdiction;

(c) Decisions, resolutions or orders of the Regional Trial Courts in tax collection cases decided or resolved by them in the exercise of their appellate jurisdiction;

(d) **Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive original jurisdiction over tax collection cases;**

¹² See *Commissioner of Internal Revenue v. Court of Tax Appeals*, 765 Phil. 140 (2015) [Per J. Peralta, Third Division].

¹³ *City of Iloilo v. Philippine Ports Authority*, 893 Phil. 399 (2021) [Per J. Zalameda, First Division].

¹⁴ *Philippine Appliance Corp. Employees Association - NATU v. Philippine Appliance Corp.*, 159 Phil. 551-556 (1975) [Per J. Fernando, Second Division].

¹⁵ G.R. No. L-12396, January 31, 1962 [Per J. Paredes, *En Banc*].

¹⁶ Entitled, “REVISED RULES OF THE COURT OF TAX APPEALS,” November 22, 2005.

(e) Decisions of the Central Board of Assessment Appeals (CBAA) in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals;

(f) Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive original jurisdiction over cases involving criminal offenses arising from violations of the National Internal Revenue Code or the Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue or Bureau of Customs;

(g) Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive appellate jurisdiction over criminal offenses mentioned in the preceding subparagraph; and

(h) Decisions, resolutions or orders of the Regional Trial Courts in the exercise of their appellate jurisdiction over criminal offenses mentioned in subparagraph (f).

Interestingly, the RRCTA merely provides for the appellate jurisdiction of the CTA *En Banc* over decisions, resolutions, or orders of the CTA Division, whether in the exercise of their original or appellate jurisdiction. On the other hand, Section 2, Rule 2 of the RRCTA provides for the tax court *en banc*'s original jurisdiction:

SECTION 2. *Exercise of Powers and Functions.* — xxx

The Court shall sit *en banc* in the exercise of its administrative, ceremonial and non-adjudicative functions.

Indeed, the RRCTA is silent on whether the CTA *En Banc* also exercises original jurisdiction over interlocutory orders or judgments of one of its divisions. Surely, the proper remedy to question an interlocutory order on the ground of grave abuse of discretion amounting to lack or excess of jurisdiction is not an appeal, but a special civil action for *certiorari* under Rule 65 of the Rules of Court. Section 1, Rule 41 of the Rules of Court provides:

Section 1. *Subject of appeal.* — An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

xxx

(c) An interlocutory order;

xxx

In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.

The Court has previously ruled against the power of the CTA *En Banc* to issue writs of *certiorari* on **interlocutory orders** of the CTA Division.

8

In *Commissioner of Internal Revenue v. Court of Tax Appeals and CBK Power Company Limited*,¹⁷ the Court ruled that an order of the CTA Division declaring a party in default is an interlocutory order properly cognizable by the Supreme Court under Rule 65. Thus, in *Commissioner of Internal Revenue v. Court of Tax Appeals (First Division) and Pilipinas Shell Petroleum Corporation*,¹⁸ we held that the CTA *En Banc* has no jurisdiction over the CTA Second Division's denial of the Omnibus Motion, being an interlocutory order. Further, in *Commissioner of Internal Revenue v. Court of Tax Appeals-Third Division and City Super, Incorporated*,¹⁹ the questioned CTA Division Resolutions partially disposed of the issue in the main case. These are interlocutory orders that are properly subject to a Rule 65 petition before the Supreme Court. The Court reiterated this rule in the recent case of *MT Alpine Magnolia v. Commissioner of Bureau of Customs*.²⁰

In all these cases, the Court ruled against the authority of the CTA *En Banc* to take cognizance of *certiorari* petitions on interlocutory orders of the CTA Division for two reasons. First, Republic Act (RA) No. 9282²¹ and the RRCTA do not provide for such *certiorari* jurisdiction of the CTA *En Banc*. Second, a petition for *certiorari* is a special civil action raising issues of lack or excess of jurisdiction; thus, it cannot be filed in the same tribunal whose actions are being assailed. Instead, it is cognizable by a higher tribunal, which, in the case of the CTA, is the Supreme Court.²² This is because, like this Court, the Court of Appeals, and the Sandiganbayan, the CTA is a collegial court. There can be no hierarchy in a collegial court between its divisions and *en banc*. We explained the *raison d'être* of the prohibition in *Commissioner of Internal Revenue v. Kepco Ilijan Corp. (Kepco)*:²³

It is the same situation among other collegial courts. To illustrate, **the Supreme Court or the Court of Appeals may sit and adjudicate cases in divisions consisting of only a number of members, and such adjudication is already regarded as the decision of the Court itself.** It is provided for in the Constitution, Article VIII, Section 4 (1) and BP Blg. 129, Section 4, respectively. **The divisions are not considered separate and distinct courts but are divisions of one and the same court; there is no hierarchy of courts within the Supreme Court and the Court of Appeals, for they each remain as one court notwithstanding that they also work in divisions.** The Supreme Court sitting *en banc* is not an appellate court *vis-a-vis* its divisions, and it exercises no appellate jurisdiction over the latter. As for the Court of Appeals *en banc*, it sits as such only for the purpose of exercising administrative, ceremonial, or other non-adjudicatory functions.

In turn, the CTA Division's **final judgments, resolutions, or orders** are cognizable by the CTA *En Banc* by appeal or petition for *certiorari*. Thus,

¹⁷ 765 Phil. 140 (2015) [Per J. Peralta, Third Division].

¹⁸ 898 Phil. 131 (2021) [Per J. Perlas-Bernabe, Second Division].

¹⁹ 902 Phil. 446 (2021) [Per J. Leonen, Third Division].

²⁰ G.R. No. 244723 (Notice), April 27, 2022 [Unsigned Resolution, Third Division].

²¹ Entitled, "AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES," March 30, 2004.

²² *Commissioner of Internal Revenue v. Kepco Ilijan Corp.*, 787 Phil. 698 (2016) [Per J. Peralta, *En Banc*].

²³ 787 Phil. 698 (2016) [Per J. Peralta, *En Banc*].

in *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division and QL Development Inc.*,²⁴ we held that the CIR erroneously filed a *certiorari* petition with the Court since the CTA Division Resolutions being questioned were final judgments on the deficiency assessment. The CIR should have filed an appeal through a petition for review with the CTA *En Banc*. In *People v. Court of Tax Appeals-Third Division, Jacinto C. Ligot and Erlinda Y. Ligot*,²⁵ the Court declared that the CTA *En Banc* has jurisdiction over a Rule 65 petition assailing the CTA Division's judgment of acquittal. Similarly, in *People v. Court of Tax Appeals, Second Division and Joselito B. Rap*,²⁶ we ruled that it is the CTA *En Banc* that has the *certiorari* power over the Decision and Resolution of the CTA Division acquitting the accused:

While *certiorari* is generally a proper remedy in questioning an order of acquittal, the BIR erred when it filed the present petition directly before the Court. The correct recourse in this case would have been to initiate *certiorari* proceedings before the CTA *En Banc*.

It is basic that the CTA *En Banc* has appellate jurisdiction over decisions, resolutions, or orders on motions for reconsideration or new trial rendered by a CTA Division in cases involving tax crimes. Consequently, the CTA *En Banc* is also vested with the power to issue writs of *certiorari* when necessary, in aid of such appellate jurisdiction. In other words, the Court has no power to take cognizance of the present petition taken that jurisdiction over *certiorari* petitions assailing a CTA Division ruling is vested with the CTA *En Banc*.

On the other hand, in *Kepco*, the issue was whether the CTA *En Banc* may annul the **final and executory** decision of one of its divisions. We ruled in the negative, applying the rule on the immutability of judgments and stating that there is no hierarchy between the *en banc* and any of its divisions. Thus:

it appears contrary to these features that a collegial court, sitting *en banc*, may be called upon to annul a decision of one of its divisions which had become final and executory, for it is **tantamount to allowing a court to annul its own judgment and acknowledging that a hierarchy exists within such court. In the process, it also betrays the principle that judgments must, at some point, attain finality.** A court that can revisit its own final judgments leaves the door open to possible endless reversals or modifications which is anathema to a stable legal system.

Thus, the Revised Rules of the CTA and even the Rules of Court which apply suppletorily thereto provide for no instance in which the *en banc* may reverse, annul or void a **final decision of a division**. Verily, the Revised Rules of the CTA provide for no instance of an annulment of judgment at all. On the other hand, the Rules of Court, through Rule 47, provides, with certain conditions, for annulment of judgment done by a superior court, like the Court of Appeals, against the final judgment, decision or ruling of an inferior court, which is the Regional Trial Court, based on the grounds of extrinsic fraud and lack of jurisdiction. The Regional Trial Court, in turn, also is empowered to, upon a similar action, annul a judgment or ruling of the Metropolitan or Municipal Trial Courts within its territorial jurisdiction. But, again, the said Rules are silent as to whether a collegial court sitting *en banc* may annul a final judgment of its own division.

²⁴ 921 Phil. 1090 (2022) [Per J. Caguioa, First Division].

²⁵ 932 Phil. 139 (2022) [Per J. Inting, Third Division].

²⁶ G.R. No. 254591 & 254675 (Notice), January 30, 2023 [Unsigned Resolution, Third Division].

As earlier explained, **the silence of the Rules may be attributed to the need to preserve the principles that there can be no hierarchy within a collegial court between its divisions and the *en banc*, and that a court's judgment, once final, is immutable.**

Meanwhile, the Court recognized the CTA *En Banc*'s inherent power to issue writs of *certiorari* against **interlocutory orders of the Regional Trial Court (RTC) in a local tax case in aid of its exclusive appellate jurisdiction** for the first time in *City of Manila v. Grecia-Cuerdo*²⁷ (*Grecia-Cuerdo*), viz.:

The prevailing doctrine is that the authority to issue writs of *certiorari* involves the exercise of original jurisdiction which must be expressly conferred by the Constitution or by law and cannot be implied from the mere existence of appellate jurisdiction... In the same manner, Section 5 (1), Article VIII of the 1987 Constitution grants power to the Supreme Court, in the exercise of its original jurisdiction, to issue writs of *certiorari*, prohibition and mandamus. With respect to the Court of Appeals, Section 9 (1) of Batas Pambansa Blg. 129 (BP 129) gives the appellate court, also in the exercise of its original jurisdiction, the power to issue, among others, a writ of *certiorari*, whether or not in aid of its appellate jurisdiction. As to Regional Trial Courts, the power to issue a writ of *certiorari*, in the exercise of their original jurisdiction, is provided under Section 21 of BP 129.

The foregoing notwithstanding, while there is no express grant of such power, with respect to the CTA, Section 1, Article VIII of the 1987 Constitution provides, nonetheless, that judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law and that **judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.**

On the strength of the above constitutional provisions, it can be fairly interpreted that **the power of the CTA includes that of determining whether or not there has been grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the RTC in issuing an interlocutory order in cases falling within the exclusive appellate jurisdiction of the tax court.** It, thus, follows that the CTA, by constitutional mandate, is vested with jurisdiction to issue writs of *certiorari* in these cases.

Indeed, in order for any appellate court, to effectively exercise its appellate jurisdiction, it must have the authority to issue, among others, a writ of *certiorari*. **In transferring exclusive jurisdiction over appealed tax cases to the CTA, it can reasonably be assumed that the law intended to transfer also such power as is deemed necessary, if not indispensable, in aid of such appellate jurisdiction. There is no perceivable reason why the transfer should only be considered as partial, not total.**

Our ruling in *Grecia-Cuerdo* finds its basis in the judicial power of the Supreme Court to determine grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government²⁸ as well as the exclusive jurisdiction of the CTA to resolve all

²⁷ 726 Phil. 9-28 (2014) [Per J. Peralta, *En Banc*]. See also *CE Casecan Water & Energy Co., Inc. v. Province of Nueva Ecija*, 760 Phil. 835-845 (2015) [Per J. Del Castillo, Second Division].

²⁸ SEC. 1, ART. VIII, 1987 CONSTITUTION.

tax problems. We emphasized, however, that the CTA's power to issue writs of *certiorari* must be **in aid of its appellate jurisdiction**.

In *Breslin v. Luzon Stevedoring Co.*,²⁹ the Court ruled that the remedy is in aid of the court's appellate jurisdiction when it "has jurisdiction to review, by appeal or writ of error, the final orders or decisions" of the particular court or tribunal. We reiterated this principle in *Bulilis v. Nuez*³⁰ and *Galang, Jr. v. Geronimo*.³¹ In *J. M. Tuason & Co., Inc. v. Jaramillo*,³² we clarified that "only in those cases where the parties have a right to appeal to that Court" that the writ of *certiorari* may be issued for the "said court could not validly entertain the petitions filed in these cases unless the judgments and orders of execution complained of could have been appealed" to them. *Grecia-Cuerdo* continues:

A grant of appellate jurisdiction implies that there is included in it the power necessary to exercise it effectively, to make all orders that will preserve the subject of the action, and to give effect to the final determination of the appeal. It carries with it the power to protect that jurisdiction and to make the decisions of the court thereunder effective. The court, in aid of its appellate jurisdiction, has authority to control all auxiliary and incidental matters necessary to the efficient and proper exercise of that jurisdiction. For this purpose, it may, when necessary, prohibit or restrain the performance of any act which might interfere with the proper exercise of its rightful jurisdiction in cases pending before it.

Lastly, it would not be amiss to point out that **a court which is endowed with a particular jurisdiction should have powers which are necessary to enable it to act effectively within such jurisdiction**. These should be regarded as powers which are inherent in its jurisdiction and the court must possess them in order to enforce its rules of practice and to suppress any abuses of its process and to defeat any attempted thwarting of such process.

In this regard, Section 1 of RA 9282 states that the CTA shall be of the same level as the CA and shall possess all the inherent powers of a court of justice.

Indeed, courts possess certain inherent powers which may be said to be implied from a general grant of jurisdiction, in addition to those expressly conferred on them. These inherent powers are such powers as are necessary for the ordinary and efficient exercise of jurisdiction; or are essential to the existence, dignity and functions of the courts, as well as to the due administration of justice; or are directly appropriate, convenient and suitable to the execution of their granted powers; and include the power to maintain the court's jurisdiction and render it effective in behalf of the litigants.

Thus, this Court has held that "while a court may be expressly granted the incidental powers necessary to effectuate its jurisdiction, a grant of jurisdiction, in the absence of prohibitive legislation, implies the necessary and usual incidental powers essential to effectuate it, and, subject to existing laws and constitutional provisions, every regularly constituted court has power to do all things that are reasonably necessary for the administration of justice within the scope of its jurisdiction and for the enforcement of its judgments and mandates." Hence, **demands, matters or questions ancillary or incidental to, or growing out of, the main action, and coming within**

²⁹ 84 Phil. 618-627 (1949) [Per J. Feria, *En Banc*].

³⁰ 670 Phil. 665-673 (2011) [Per J. Leonardo-De Castro, *En Banc*].

³¹ 659 Phil. 65-70 (2011) [Per J. Peralta, *En Banc*].

³² 118 Phil. 1022-1032 (1963) [Per J. Reyes, J.B.L., *En Banc*].

J

the above principles, may be taken cognizance of by the court and determined, since such jurisdiction is in aid of its authority over the principal matter, even though the court may thus be called on to consider and decide matters which, as original causes of action, would not be within its cognizance.

Elsewise stated, if the subject matter of the principal action falls within the exclusive appellate jurisdiction of the CTA, whether acting *en banc* or any of its divisions, then the CTA can issue writs of *certiorari* in aid of its appellate jurisdiction.

III.

The CTA En Banc has jurisdiction over petitions for certiorari assailing the interlocutory order or judgment issued by the CTA Division.

A writ of *certiorari* is an extraordinary remedy to correct errors of jurisdiction of judicial and quasi-judicial bodies as well as grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the government. Section 1, Rule 65 of the Rules of Court reads:

Section 1. *Petition for certiorari.* — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of its or his jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.

Certiorari, as a special civil action, is an original action invoking the original jurisdiction of a court to annul or modify the proceedings of a tribunal, board or officer exercising judicial or quasi-judicial functions. It is an original and independent action not part of the trial or the proceedings on the original case.³³ Simply stated, a *certiorari* petition is not a continuation of the appellate process borne out of the original case but a separate action focused on actions in excess or wanting of jurisdiction.³⁴

The writ has been characterized as a “supervisory writ” used by

³³ *San Miguel Bukid Homeowners Association, Inc. v. City of Mandaluyong*, 617 Phil. 231-241 (2009) [Per J. Peralta, Third Division].

³⁴ *Commissioner of Internal Revenue v. Kepco Ilijan Corp.*, 787 Phil. 698 (2016) [Per J. Peralta, *En Banc*]. See also *Heirs of Pulido, Jr. v. Court of Appeals*, G.R. No. 161088, September 16, 2015 [Unsigned Resolution, First Division], citing Feria, J. & Noche, *Civil Procedure Annotated*, 2013 edition, Central Book Store, Quezon City, pp. 669-700.

superior courts to keep lower courts within the bounds of their jurisdictions, thereby ensuring orderliness in lower courts' rulings.³⁵ It is issued by a higher court against the proceedings of the lower courts under its control and supervision.³⁶ Thus, in *Garcia v. De Jesus*,³⁷ the Court held that the COMELEC does not have *certiorari* power over the Regional Trial Court, although exercising appellate jurisdiction since the COMELEC is not a judicial tribunal and merely exercises administrative and quasi-judicial powers. Likewise, in *Department of Agrarian Reform Adjudication Board v. Lubrica*,³⁸ we ruled that the DARAB does not have the power to correct errors of jurisdiction over the RARAD since its supervisory authority is only limited to administrative supervision and/or control.

On the other hand, the CTA *En Banc* may be considered a "higher" or "superior" court than its Divisions in view of the express grant of jurisdiction to review by appeal decisions, orders, or resolutions of the Divisions. Under the CTA's present set-up, the Division's decision, order, or resolution in a civil or criminal case is **always** appealable to the *en banc*.³⁹ Unlike the Court of Appeals, or the Supreme Court, the CTA sitting *en banc* exercises appellate jurisdiction over any of its divisions. It may revisit facts and re-examine evidence already determined by the division in aid of its appellate jurisdiction. The CTA *En Banc* may reverse or modify the division's judgment, except those that had become final and executory. Consequently, a decision rendered by any of the divisions is not a final decision of the court. Under the current structure of the CTA, therefore, the CTA *En Banc* is considered a separate and distinct court – a "higher court" than any of its divisions. This is not true for the Court of Appeals or the Supreme Court. The Court of Appeals *en banc* and the Supreme Court *en banc* do not have appellate jurisdiction over their divisions.⁴⁰ Accordingly, a ruling of any of their division is the court's final decision on the matter, regardless of whether it was rendered by the division or *en banc*.

During the deliberations of this case, Associate Justice Alfredo Benjamin S. Caguioa posits that RA No. 9282 merely "established an appellate structure that allows the full court to collectively review rulings of its division." "R.A. No. 9282 did not create a hierarchy between the CTA *En Banc* and its divisions." "The legislative intent was to establish a clear appellate process within the CTA, but not to turn the CTA *En Banc* into a supervisory body with *certiorari* jurisdiction over its own divisions." Associate Justice Japar B. Dimaampao further opined that "[r]ather than introducing the CTA *En Banc* as a 'superior' court to the CTA in Division, it is merely a secondary check on the Division's factual conclusion." But then,

³⁵ *Association of Medical Clinics for Overseas Workers, Inc. v. GCC Approved Medical Centers Association, Inc.*, 802 Phil. 116-190 (2016) [Per J. Brion, *En Banc*], citing *Madrigal Transport Inc. v. Lapanday Holdings Corp.*, 479 Phil. 768-786 (2004) [Per J. Panganiban, Third Division]. See also *Garcia v. De Jesus*, 283 Phil. 735-768 (1992) [Per J. Melencio-Herrera, *En Banc*] and *Central Bank of the Philippines v. Court of Appeals*, 253 Phil. 39-50 (1989) [Per CJ. Fernan, Third Division].

³⁶ *Paa v. Court of Appeals*, 347 Phil. 122-138 (1997) [Per J. Davide, Jr., *En Banc*], citing Florenz D. Regalado, Remedial Law Compendium [6th ed. 1997], pp. 543-544.

³⁷ 283 Phil. 735-768 (1992) [Per J. Melencio-Herrera, *En Banc*].

³⁸ 497 Phil. 313-327 (2005) [Per J. Tinga, Second Division].

³⁹ See SEC. 2, RULE 4, RRCTA; SEC. 4, RULE 8, RRCTA; and SEC. 9, RULE 9, RRCTA.

⁴⁰ See *Commissioner of Internal Revenue v. Kepco Ilijan Corp.*, 787 Phil. 698 (2016) [Per J. Peralta, *En Banc*].

“introducing this second check could not have been intended to grant the CTA *En Banc* greater authority or supervision over the CTA in Division. Simply put, it is not a ‘higher tribunal’ *per se*.”

These arguments are specious.

Senate President Franklin M. Drilon emphasized in his sponsorship speech the conversion of the CTA into an appellate court that specializes in tax cases so that decisions of the CTA sitting in Division shall now be appealed to the *en banc*, **instead** of the Court of Appeals.

Mr. President, another important feature of this measure is that appeals from decisions of the Court of Tax Appeals are no longer appealable to the Court of Appeals. Under the modified appeal procedure, the decision of a division of the Court of Tax Appeals may be appealed to the Court of Tax Appeals *en banc*. The decision of the Court of Tax Appeals *en banc* may in turn be directly appealed to the Supreme Court only on a question of law. **This is expected to facilitate court proceedings in tax cases since the Court of Tax Appeals has admittedly the necessary expertise in tax matters. Moreover, there will be less divisive rulings on tax matters since appeal shall be made only to the Court of Tax Appeals *en banc* instead of the Court of Appeals with its many divisions.**⁴¹

The foregoing is aligned with the intent of the House of Representatives when it tackled House Bill Nos. 854, 2862, and 5044, which elevated the rank of the CTA to the level of a collegiate court. One of the co-authors of the bill, Representative Exequiel B. Javier, explained the effect of converting the CTA as a collegiate court, as follows:

... Under my bill, of course, once the Court of Tax Appeals is constituted as a collegiate court with 9 divisions, the appeal will go to the Court of Appeals on questions of fact, questions of law and so forth. Of course, only questions of law will be elevated to the Supreme Court. But I understand that, according to Judge Acosta, who is the presiding judge of the Court of Tax Appeals, we may have to eliminate the appeal to the Court of Appeals because it's quite illogical that a collegiate court with an expertise on tax matters... tax matters so they appealed to the Court of Appeals and no offense to Justice Agcaoili. The Court of Appeals is a court of general appellate jurisdiction under all cases. So it not also help de-clog the dockets of the Court of Appeals. **So the appeal would be from the division of the Court of Tax Appeals to the Court of [Tax] Appeals *en banc* and whatever decision *en banc* reaches then it goes to the Supreme Court for appeal on certiorari only on three grounds.** Abuse of discretion, serious errors of facts and question of law.⁴²

Then Presiding Judge of the CTA, Ernesto Acosta, added:

... Now, this, as observed by Congressman Danilo Suarez, this bill was vetoed because the last Congress failed to get the concurrence of the Supreme Court on the matters of direct appeal from the Court of Tax Appeals to the Supreme Court because that, they say, will increase the jurisdiction of the Supreme Court without its consent. Now, this pertains to Section 18 and

⁴¹ Sponsorship Speech of Senate President Franklin M. Drilon, December 1, 2003, Record of the Senate, Volume III, No. 41, Twelfth Congress, Third Regular Session, p. 53.

⁴² House of Representatives Committee Hearing, Committee on Justice, March 4, 2003, pp. 4-6.

J

Section 19 of our Charter which is also a subject of the various proposals of the Honorable Congressmen and Congresswoman.

And I would like to inform the Body that this particular issue on the appeal to the Supreme Court is now being heard by the Supreme Court through its Committee on Legal Education headed by Justice Jose Vitug. The matter is being heard by them after the Senate version of this bill was referred by the Senate President to the Supreme Court.

So right now, it is being heard and, in fact, on Friday we are also requested by the Supreme Court to give our proposal on that appeal procedure from the Court Division up to the Supreme Court. And as Congressman Danilo Suarez was correctly informed that the Honorable Justice Carpio have made a proposal during the committee hearing **that the appeal would be coursed through the Court of Tax Appeals en banc on limited matters like abuse of discretion, question of law where serious error in the findings of fact.**⁴³

Congress relieved the Court of Appeals of jurisdiction to decide on appeal, decisions or rulings of the CTA (which now sits in Division). The appellate jurisdiction of the Court of Appeals was transferred to a *new body* – the CTA *En Banc*, while the former CTA (composed of a presiding judge and two judges) became the CTA Division. The present framework of the CTA created, in essence, two courts with unique and distinct jurisdictions.

Associate Justice Caguioa insisted that *certiorari* petition under Rule 65 of the Rules of Court is a remedy available only against lower courts and “not within the same judicial entity.” Associate Justice Dimaampao explained that “the CTA *En Banc* is not a superior tribunal to the CTA in Division.” However, the Court already recognized the authority of the CTA *En Banc* to review on *certiorari* final dispositions of its divisions in *People v. Court of Tax Appeals-Third Division, Jacinto C. Ligot and Erlinda Y. Ligot*⁴⁴ and *People v. Court of Tax Appeals, Second Division and Joselito B. Rap*.⁴⁵ We allowed resort to Rule 65 **within the same collegiate court**. The reason is obvious – when Congress transferred exclusive jurisdiction over appealed tax cases to the CTA, it also transferred such power as is deemed necessary, if not indispensable, in aid of such appellate jurisdiction.

Accordingly, I respectfully submit that there is no reason to limit our ruling in *Grecia-Cuerdo* to interlocutory orders of the RTC in a local tax case⁴⁶ or to adverse rulings of the CIR or the Secretary of Finance,⁴⁷ the Commissioner of Customs, or the Secretary of Trade and Industry on tax-related problems.⁴⁸ The *certiorari* power of the CTA extends to the authority of the CTA *en banc* to determine grave abuse of discretion amounting to lack or excess of jurisdiction on any of its divisions, when necessary, in aid of its appellate jurisdiction. How can the CTA *en banc* effectively exercise its

⁴³ Committee Hearing, Committee on Justice, March 4, 2003, pp. 10-11.

⁴⁴ 932 Phil. 139 (2022) [Per J. Inting, Third Division].

⁴⁵ G.R. No. 254591 & 254675 (Notice), January 30, 2023 [Unsigned Resolution, Third Division].

⁴⁶ *CE Casecan Water & Energy Co., Inc. v. Province of Nueva Ecija*, 760 Phil. 835-845 (2015) [Per J. Del Castillo, Second Division].

⁴⁷ *The Philippine American Life and General Insurance Co. v. The Secretary of Finance*, 747 Phil. 811-832 (2014) [Per J. Velasco, Jr., Third Division].

⁴⁸ *Banco De Oro v. Republic*, 793 Phil. 97 (2016) [Per J. Leonen, *En Banc*].

appellate jurisdiction over decisions, resolutions, or orders of the CTA Division if it cannot issue auxiliary writs necessary in aid of its appellate jurisdiction? To rule otherwise would be to sanction split jurisdiction, an absurd situation where one court decides an appeal in the main case, e.g., the CTA *En Banc*, while another court rules on an incident in the very same case, e.g., the Supreme Court.⁴⁹ A piecemeal resort to one court and another gives rise to a multiplicity of suits.⁵⁰ Split jurisdiction results in loss of time, waste of effort, augmented anxiety, and additional expense⁵¹ – clearly intolerable and abhorrent in a well-ordered administration of justice.⁵² *Grecia-Cuerdo* further elucidated:

If this Court were to sustain petitioners' contention that jurisdiction over their *certiorari* petition lies with the CA, this Court would be confirming the exercise by two judicial bodies, the CA and the CTA, of jurisdiction over basically the same subject matter — precisely the split-jurisdiction situation which is anathema to the orderly administration of justice. The Court cannot accept that such was the legislative motive, especially considering that the law expressly confers on the CTA, the tribunal with the specialized competence over tax and tariff matters, the role of judicial review over local tax cases without mention of any other court that may exercise such power. Thus, the Court agrees with the ruling of the CA that **since appellate jurisdiction over private respondents' complaint for tax refund is vested in the CTA, it follows that a petition for *certiorari* seeking nullification of an interlocutory order issued in the said case should, likewise, be filed with the same court. To rule otherwise would lead to an absurd situation where one court decides an appeal in the main case while another court rules on an incident in the very same case.**

Stated differently, it would be somewhat incongruent with the pronounced judicial abhorrence to split jurisdiction to conclude that the intention of the law is to divide the authority over a local tax case filed with the RTC by giving to the CA or this Court jurisdiction to issue a writ of *certiorari* against interlocutory orders of the RTC but giving to the CTA the jurisdiction over the appeal from the decision of the trial court in the same case. It is more in consonance with logic and legal soundness to conclude that the grant of appellate jurisdiction to the CTA over tax cases filed in and decided by the RTC carries with it the power to issue a writ of *certiorari* when necessary in aid of such appellate jurisdiction. **The supervisory power or jurisdiction of the CTA to issue a writ of *certiorari* in aid of its appellate jurisdiction should co-exist with, and be a complement to, its appellate jurisdiction to review, by appeal, the final orders and decisions of the RTC, in order to have complete supervision over the acts of the latter.**

The *certiorari* power to the CTA *En Banc* over interlocutory orders or resolutions of the Divisions is consistent with the rule on the hierarchy of courts.

The doctrine of hierarchy of courts requires that recourse must be first obtained from the lower courts to prevent inordinate demands upon the Court's time and attention, which are better devoted to those within its

⁴⁹ *City of Manila v. Grecia-Cuerdo*, 726 Phil. 9-28 (2014) [Per J. Peralta, *En Banc*].

⁵⁰ *Bay View Hotel, Inc. v. Manila Hotel Worker's Union-PTGWO*, 125 Phil. 247-256 (1966) [Per J. Sanchez, *En Banc*].

⁵¹ *Bay View Hotel, Inc. v. Manila Hotel Worker's Union-PTGWO*, 125 Phil. 247-256 (1966) [Per J. Sanchez, *En Banc*].

⁵² *Filipro, Inc. v. Court of Industrial Relations*, 150-B Phil. 537-555 (1972) [Per J. Makasiar, First Division].

exclusive jurisdiction, and to prevent further overcrowding of this Court's docket.⁵³ The doctrine was first introduced in *People v. Cuaresma*,⁵⁴ viz:

This Court's original jurisdiction to issue writs of *certiorari* (as well as prohibition, *mandamus, quo warranto*, habeas corpus and injunction) is not exclusive. It is shared by this Court with Regional Trial Courts (formerly Courts of First Instance), which may issue the writ, enforceable in any part of their respective regions. It is also shared by this Court, and by the Regional Trial Court, with the Court of Appeals (formerly, Intermediate Appellate Court), although prior to the effectivity of Batas Pambansa Bilang 129 on August 14, 1981, the latter's competence to issue the extraordinary writs was restricted to those "in aid of its appellate jurisdiction." This concurrence of jurisdiction is not, however; to be taken as according to parties seeking any of the writs an absolute, unrestrained freedom of choice of the court to which application therefor will be directed. There is after all a hierarchy of courts. That hierarchy is determinative of the venue of appeals, and should also serve as a general determinant of the appropriate forum for petitions for the extraordinary writs. A becoming regard for that judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level ("inferior") courts should be filed with the Regional Trial Court, and those against the latter, with the Court of Appeals. A direct invocation of the Supreme Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition. This is established policy. It is a policy that is necessary to prevent inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction, and to prevent further over-crowding of the Court's docket. Indeed, the removal of the restriction on the jurisdiction of the Court of Appeals in this regard, *supra* — resulting from the deletion of the qualifying phrase, "in aid of its appellate jurisdiction" — was evidently intended precisely to relieve this Court *pro tanto* of the burden of dealing with applications for the extraordinary writs which, but for the expansion of the Appellate Court corresponding jurisdiction, would have had to be filed with it.

*The Diocese of Bacolod v. Commission on Elections*⁵⁵ expounded on this doctrine, to wit:

The doctrine that requires respect for the hierarchy of courts was created by this court to ensure that every level of the judiciary performs its designated roles in an effective and efficient manner. Trial courts do not only determine the facts from the evaluation of the evidence presented before them. They are likewise competent to determine issues of law which may include the validity of an ordinance, statute, or even an executive issuance in relation to the Constitution. To effectively perform these functions, they are territorially organized into regions and then into branches. Their writs generally reach within those territorial boundaries. Necessarily, they mostly perform the all-important task of inferring the facts from the evidence as these are physically presented before them. In many instances, the facts occur within their territorial jurisdiction, which properly present the 'actual case' that makes ripe a determination of the constitutionality of such action. The consequences, of course, would be national in scope. There are, however, some cases where resort to courts at their level would not be practical considering their decisions could still be appealed before the higher courts, such as the Court of Appeals.

⁵³ *Maynilad Water Services, Inc. v. National Water and Resources Board*, 918-A Phil. 17 (2021) [Per J. Leonen, *En Banc*].

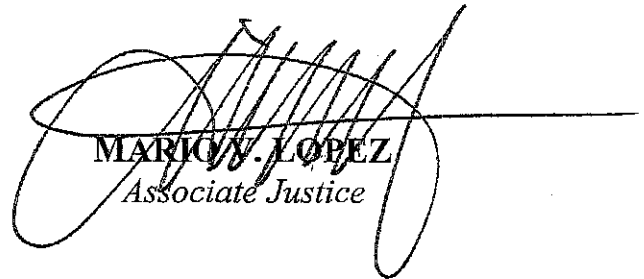
⁵⁴ 254 Phil. 418-428 (1989) [Per J. Narvasa, First Division].

⁵⁵ 751 Phil. 301-450 (2015) [Per J. Leonen, *En Banc*].

8

In other words, the Supreme Court may take cognizance and assume jurisdiction over special civil actions for *certiorari* only as a last resort and in exceptional cases. The CTA is a highly specialized body created to resolve all tax problems. It should be allowed to determine firsthand all matters relative to the exercise of its specific jurisdiction.

Accordingly, I maintain that the CTA *En Banc* has primary jurisdiction to determine grave abuse of discretion amounting to lack or excess of jurisdiction on all interlocutory orders or judgments issued by any of its divisions.



MARIO V. LOPEZ
Associate Justice

