

## EN BANC

[ G.R. No. 144942, July 04, 2002 ]

### COMMISSIONER OF INTERNAL REVENUE, PETITIONER VS. LA SUERTE CIGAR AND CIGARETTE FACTORY, RESPONDENT.

#### R E S O L U T I O N

**VITUG, J.:**

In its resolution, dated 15 November 2000, this Court denied the Petition for Review on *Certiorari* submitted by the Commissioner of Internal Revenue for non-compliance with the procedural requirement of verification explicit in Section 4, Rule 7, of the 1997 Rules of Civil Procedure and, furthermore, because the appeal was not pursued by the Solicitor General. When the motion for reconsideration filed by petitioner was likewise denied, petitioner filed the instant motion seeking an elucidation on the supposed discrepancy between the pronouncement of this Court, on the one hand, that would require the participation of the Office of the Solicitor General and pertinent provisions of the Tax Code, on the other hand, that allow the legal officers of the Bureau of Internal Revenue (BIR) to institute and conduct judicial action in behalf of the Government under Section 220 of the Tax Reform Act of 1997 (R.A. 8424 effective 01 January 1998). -

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

Ordered to comment, the Office of the Solicitor General expressed the view that under the aforementioned Section 220 of the Tax Reform Act, amending Section 221 of the 1993 Tax Code, "the primary responsibility to conduct civil and criminal actions lies with the legal officers of the Bureau of Internal Revenue, such that it is no longer necessary for BIR legal officers to be deputized by the Office of the Solicitor General or the Secretary of Justice before they can commence any action under the 1997 Tax Code."<sup>[1]</sup>

The **institution** or **commencement** before a proper court of civil and criminal actions and proceedings arising under the Tax Reform Act which "shall be conducted by legal officers of the Bureau of Internal Revenue" is not in dispute. **An appeal from such court, however, is not a matter of right. Section 220 of the Tax Reform Act must not be understood as overturning the long established procedure before this Court in requiring the Solicitor General to represent the interest of the Republic. This Court continues to maintain that it is the**