REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

Special Second Division

HOLCIM PHILIPPINES MANUFACTURING CORPORATION, *Petitioner,*	**CTA CASE NO. 10414**
- versus –	Members:
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	**RINGPIS-LIBAN, *P.J.* & *Chairperson*** **MODESTO-SAN PEDRO, *and*** **FERRER-FLORES, *JJ.***
	Promulgated: OCT 02 2026 4:23 PM

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RESOLUTION

RINGPIS-LIBAN, *J.*:

Before the Court is the *Motion for Reconsideration* dated May 19, 2026[1] filed by respondent Commissioner of Internal Revenue (CIR), seeking reconsideration of the *Resolution* dated April 17, 2026[2] rendered by this Court in the above-captioned case, the dispositive portion of which reads:

> "**WHEREFORE**, in light of the foregoing, the Verified Petition for Relief from Judgment filed by respondent CIR is hereby **DENIED** for failure to establish excusable negligence as a ground for relief under Rule 38 of the Rules of Court, and for failure to demonstrate a meritorious defense.
>
> **SO ORDERED."**

The antecedent facts, as gathered from the records, are as follows.

On December 3, 2020, petitioner Holcim Philippines Manufacturing Corporation filed a Petition for Review seeking the cancellation of deficiency capital gains tax (CGT) assessments issued by respondent. By Decision dated

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[1] Docket-Vol. IV, pp. 1550-1582.
[2] *Id.*, pp. 1508-1514.

February 14, 2025[3], the Court granted the Petition for Review on the ground that respondent's right to assess had already prescribed. No Motion for Reconsideration having been filed by respondent, the Decision became final and executory, and Entry of Judgment was made on December 4, 2025.

On November 17, 2025, respondent filed a *Verified Petition for Relief from Judgment*, invoking excusable negligence under Rule 38 of the Rules of Court, on the ground that the failure to file a Motion for Reconsideration was caused by the transfer and reassignment of the previous handling lawyer, which created a transition gap in the management of the case[4].

By Resolution dated April 17, 2026[5], the Court denied the Petition for Relief from Judgment. The Court found the Petition timely filed under Rule 38, Section 3, but held that respondent failed to establish excusable negligence, the reassignment of counsel and the resulting transition being organizational matters internal to, and within the institutional control of, the Bureau of Internal Revenue (BIR) Litigation Division. The Court further held that, even assuming excusable negligence, respondent failed to demonstrate a meritorious defense, since the three-year prescriptive period under Section 203 of the National Internal Revenue Code (NIRC) of 1997, as amended, applies to One-Time Transactions (ONETT) no differently than to other transactions, and Revenue Memorandum Orders (RMOs) governing CAR processing cannot expand or override that statutory period.

Respondent received the Resolution on May 4, 2026[6], giving it until May 19, 2026 within which to move for reconsideration. On May 19, 2026, respondent filed the Motion for Reconsideration now before the Court.

The accompanying *Affidavit of Service* dated May 19, 2026, executed by Ms. Marites M. Sta. Ana of the BIR Litigation Division, shows that the Motion for Reconsideration was served by registered mail on petitioner's counsel, Mata-Perez, Tamayo & Francisco, at "Unit 15A, ACT Tower, 135 H.V. Dela Costa St., Salcedo Village, Makati City" — the same address which, as recited in the Resolution dated April 17, 2026 itself, had previously returned mail with the annotation "MOVED OUT."

On June 17, 2026, petitioner received the Court's Resolution dated June 1, 2026 directing it to file its Comment on the Motion for Reconsideration within five (5) days from receipt. As petitioner had not been furnished a copy of the Motion, it filed a *Manifestation* dated June 22, 2026 informing the Court of this fact[7]. On July 15, 2026, petitioner received the Court's Minute Resolution dated July 15, 2026, noting the Manifestation and directing respondent to furnish

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[3] Docket-Vol. 3, pp. 1364-1385.
[4] *Id.* at Note 1, pp. 1420-1422.
[5] *Id.*, pp. 1508-1514.
[6] *Id.*, p. 1550.
[7] *Id.*, pp. 1586-1588.

petitioner a copy of the Motion for Reconsideration. Petitioner actually received a copy of the Motion for Reconsideration, by registered mail, only on July 14, 2026[8].

On July 20, 2026, petitioner filed its *Comment/Opposition*[9], opposing the Motion for Reconsideration on both procedural and substantive grounds, including the contention that the Motion should be deemed pro forma and/or not filed for respondent's failure to timely and properly serve and electronically transmit a copy thereof.

Respondent's Motion for Reconsideration

Respondent's Motion for Reconsideration raises the following grounds, restated here without evaluation:

First, respondent submits that the Court erred in ruling that respondent failed to establish excusable negligence as a ground for relief under Rule 38, respondent maintaining that the reassignment of the previously handling lawyer, the resulting transition gap, and the volume of cases and shortage of personnel within the BIR Litigation Division constitute circumstances beyond respondent's control that ordinary diligence could not have prevented, and that respondent should not be bound by its counsel's negligence.

Second, respondent submits that the Court erred in ruling that respondent failed to demonstrate a meritorious defense, respondent maintaining that the three-year prescriptive period under Section 203 of the NIRC does not apply to One-Time Transactions (ONETT) in the same manner as to other transactions, and that the period to assess is not triggered until the Bureau of Internal Revenue has received complete documentary requirements and processed the Certificate Authorizing Registration (CAR) covering the transaction.

The Court resolves the threshold question of the Motion's own procedural validity before any other matter, since an infirmity in the filing or service of the Motion may dispose of the case without need to pass upon its substantive grounds.

The Motion for Reconsideration is pro forma for the movant's failure to serve petitioner within the reglementary period.

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[8] *Id.*, p. 1592.
[9] *Id.*, pp. 1591-1614.

Section 6, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides:

> **"SEC. 6. Contents of motion for reconsideration or new trial and notice.** — The motion shall be in writing stating its grounds, a written notice of which shall be served by the movant on the adverse party. [...] A motion for reconsideration or new trial that does not comply with foregoing provisions shall be deemed pro forma, which shall not toll the reglementary period for appeal."

The rule is explicit and admits of no exception: the movant must serve written notice of the motion on the adverse party within the same period allowed for filing it. The movant received the assailed Resolution on May 4, 2026 and therefore had until May 19, 2026, both to file the Motion for Reconsideration and to serve a copy on petitioner. The movant filed the Motion on May 19, 2026, timely as to filing, but served it on petitioner's counsel at an address the Resolution being reconsidered had itself already identified as defunct. Effective service was accomplished only after petitioner's Manifestation of June 22, 2026, prompted the Court to direct compliance, with petitioner receiving an actual copy on July 14, 2026, almost two months beyond the reglementary period.

The Court is not unmindful that the negligence of government counsel, no less than that of private counsel, binds the client. The Resolution the movant now seeks to have reconsidered had already put the movant on express notice that petitioner's counsel's address of record had changed. That the movant nonetheless served the Motion at the same superseded address, without any indication of effort to ascertain the correct one, reflects a lack of ordinary diligence that the rule does not excuse.

The consequence of non-compliance with Rule 15, Section 6 is unambiguous: the Motion is deemed pro forma and does not toll the reglementary period. The Resolution dated April 17, 2026, had therefore already lapsed into finality before proper service of the Motion for Reconsideration was ever accomplished. This alone warrants denial of the Motion.

Given this disposition, the Court finds it unnecessary to pass upon petitioner's further contention that the Motion should be deemed not filed for want of compliance with the electronic-service requirements of CTA *En Banc* Resolution No. 08-2024 and CTA *En Banc* Resolution No. 1-2025, as the pro forma defect already discussed suffices to resolve the Motion.

Even on the merits, the movant fails to show that the Court erred in finding no excusable negligence and no meritorious defense.

Although the foregoing procedural ground is sufficient to dispose of the Motion, the Court addresses the substantive grounds raised, for completeness and to foreclose any doubt as to the correctness of the Resolution dated April 17, 2026, on the merits.

On the first ground, the movant reiterates that the transfer and reassignment of the previous handling lawyer, compounded by the volume of cases and shortage of personnel within the BIR Litigation Division, constitutes excusable negligence under Rule 38. The Court has already held, and now reiterates, that such circumstances are organizational and administrative in character, internal to the BIR, and lie entirely within respondent's own institutional control. They are not of a kind that ordinary diligence and foresight could not have guarded against. The negligence of counsel, whether private or government, ordinarily binds the client[10], and the State, when it descends to the level of an ordinary litigant, must accept the consequences of its counsel's acts or omissions[11]. The authorities newly cited in the Motion, which speak to the general liberal construction of procedural rules in the interest of substantial justice, do not address, still less disturb, this specific and controlling rule. The first ground is UNMERITORIOUS.

On the second ground, the movant expands, without materially altering, its original theory that the three-year prescriptive period under Section 203 of the NIRC does not run, in ONETT transactions, until the Bureau of Internal Revenue has received complete documentary requirements and processed the CAR. This elaboration, however extensive, does not escape the plain text of the statute. Section 203 is categorical and draws no distinction between ONETT and non-ONETT transactions; it runs the three-year period from the filing of the return, or the date the return should have been filed, whichever is later. Section 52(D) of the same Code fixes the CGT return-filing deadline at thirty (30) days from the transaction, again without qualification for ONETT transactions. The CAR-application and verification process under the cited Revenue Memorandum Orders is a distinct administrative procedure attendant to the registration and transfer of property; it does not, and cannot, extend a prescriptive period fixed by statute[12]. Tellingly, the movant's own cited RMO No. 15-2003 confirms that an ONETT taxpayer may file the return and pay the tax before ever seeking the BIR's assistance in CAR processing, which only underscores that the two processes are independent of one another for purposes of the running of the assessment period.

The movant's renewed invocation of the informal-conference letter dated April 12, 2002, as a basis to reckon the extraordinary ten-year period under Section 222(a) of the NIRC was already considered, and rejected, in the Decision dated February 14, 2025 itself, which counted ten years from that same 2002

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[10] *Spouses Que v. Court of Appeals*, 504 Phil. 616, 626 (2005).
[11] *Madarang v. Spouses Morales*, G.R. No. 199283, 9 June 2014.
[12] *Commissioner of Internal Revenue v. Next Mobile, Inc. (formerly Nextel Communications Phils., Inc.)*, G.R. No. 212825, 7 December 2015.

letter and still found the assessment, issued only in 2019, to be time-barred. That Decision is final and executory. A Petition for Relief from Judgment, and a fortiori a Motion for Reconsideration of the denial thereof, is not a vehicle to relitigate a question already resolved on the merits. The second ground is likewise UNMERITORIOUS.

The movant having failed to show that the Court erred in either respect, and the Motion being in any event pro forma for want of timely service, the Motion for Reconsideration must be denied.

WHEREFORE, premises considered, the Motion for Reconsideration dated May 19, 2026 filed by respondent Commissioner of Internal Revenue is hereby **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

WE CONCUR:

MARIA ROWENA A. MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice